S. HRG. 109–1066

THE STAFFORD ACT: A PLAN FOR THE NATION'S EMERGENCY PREPAREDNESS AND RESPONSE SYSTEM

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JULY 27, 2006

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ONE HUNDRED NINTH CONGRESS
SECOND SESSION

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ADDITIONAL MATERIAL

THE STAFFORD ACT: A PLAN FOR THE NATION'S EMERGENCY PREPAREDNESS AND RESPONSE SYSTEM

THURSDAY, JULY 27, 2006

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m. in room 406, Senate Dirksen Building, Hon. James M. Inhofe (chairman of the committee) presiding.

Present: Senators Inhofe, Vitter, Jeffords, Clinton, and Obama.

Senator INHOFE. The meeting will come to order, as we inaugurate our new hearing room.

Senator Jeffords, isn't this exciting? It must be so exciting that no one showed up.

[Laughter.]

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. We appreciate all of you guys being here. I am sorry we didn't get a chance to get down and say hello to you and welcome you individually, but we have a policy, we always start on time, even if I am the only one here. So now Senator Jeffords has caught on, and he is always here too. So we do that. I am sorry that I commented that I was asking where Hillary was, because this is one of the few subjects where she and I agree, and I kind of want her here.

Anyway, today the committee will be hearing from two panels to discuss the debris removal in New Orleans post–Katrina, progress made in disaster mitigation and preparedness nationwide per the revisions of the Disaster Mitigation Act of 2000 that we passed in this committee and on the floor, and the adequacy of the Stafford Act authorities for future major disasters.

I want to thank our witnesses for coming today.

During the 106th Congress, our committee reported out S. 1691, the Disaster Mitigation Act, a bill initially introduced by myself and Senators Baucus, DeWine, Grassley, Voinovich, Bond, Graham, and Smith. As signed into law, the Act sought to authorized programs for predisaster mitigation and to streamline the administration of disaster relief, and this hearing is a follow-up to that Act to see exactly where we are 6 years later.

In fiscal years 1999 and 2000, the VA, HUD, and independent agencies' Appropriations bill allocated $25 million for the Federal

Emergency Management Agency (FEMA), to conduct predisaster mitigation activities. FEMA designed the Project Impact Program to focus its resources on creating disaster-resistant communities, setting a goal of reducing the risk of loss of life and loss of property—loss of life by 10 percent and loss of property by 15 percent—by 2007.

Of course, since that time, the Nation has experienced two major disasters: first, the 9/11 terrorist attacks, which created the Department of Homeland Security (DHS), which now has jurisdiction over FEMA, and, quite frankly, FEMA hasn't been doing as well since that time—and, second, Hurricane Katrina. I understand that the DHS, not FEMA, handles preparedness, but hope that the worthwhile goals established by FEMA for preparedness have been adopted by DHS.

I will be curious to learn more about the National Preparedness Plan and how close we are to achieving the goal of reducing the life risk by 10 percent and the property risk by 15 percent by 2007.

We are now 2 months into the hurricane season and, fortunately, we haven't had a real major storm. Nonetheless, we can't let our guard down with respect to being ready for that next major storm. Although in my State of Oklahoma, we don't have the threat of the hurricanes, we do have quite frequently tornadoes, and we have learned to live with them. In fact, it was the tornadoes of 1995, which followed shortly after the Murrah Federal Office Building bombing, that destroyed a lot of communities in the Oklahoma City area and prompted me to draft S. 1691.

While we can't prevent natural disasters, we can certainly do better in preparing for them. After touring the aftermath of the 1995 tornadoes in Oklahoma, I became a believer in encouraging communities to take steps prior to the natural disasters to lessen the impact. In Oklahoma, that means that families are encouraged to have in their homes safe rooms designed to be able to save people and have them withstand hurricane force winds and other precautions.

Whatever the natural disaster be, be it a tornado, hurricane, earthquake, fire, flood, communities and individual homeowners can take steps to lessen the impact of such events. We will be hearing today from several witnesses on the success stories and, I suspect, some of the things that we could have done better. Finally, following Katrina, in the Gulf States there has been much concern about the clean up of debris, especially in New Orleans, and I have been contacted by several that are unhappy with the pace of the debris removal and the disposal of the debris once it has been picked up. Given the potential long-term health and liability issues of improperly disposed debris, the committee will be following this issue very closely.

Today's hearing will be our first attempt to get on the record what is happening on this issue, but there will be follow-up meetings. You know, one of the things—I am sure, Senator Jeffords, you have run into the same thing. It has been our information that there are existing landfills down there that are not being used and, yet, new landfills are being built. I just think we can do a better job. That is what we will be exploring with this committee, and

some of the witnesses on the first and the second panel might be thinking about responding to questions along those lines.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Today the committee will be hearing from two panels to discuss debris removal in New Orleans post-Hurricane Katrina; progress made in disaster mitigation and preparedness nationwide per the provisions of the Disaster Mitigation Act of 2000; and adequacy of the Stafford Act authorities for future major disasters.

I want to thank our witnesses for coming today, and we look forward to hearing from each of you.

During the 106th Congress, our committee reported out S. 1691, the Disaster Mitigation Act, a bill initially introduced by myself and Senators Baucus, DeWine, Grassley, Voinovich, Bond, Graham (FL) and Smith (NH). As signed into law, the Act sought to authorize programs for predisaster mitigation, and to streamline the administration of disaster relief. This hearing is a follow-up to that Act to see exactly where we are 6 years later.

In fiscal years 1999 and 2000, the VA–HUD and Independent Agencies Appropriation bills allocated $25 million for the Federal Emergency Management Agency (FEMA) to conduct predisaster mitigation activities. FEMA designed the "Project Impact" program to focus its resources on creating disaster-resistant communities, setting a goal of reducing the risk of loss of life by 10 percent and reducing the risk of property loss by 15 percent by 2007.

Of course, since that time, the Nation has experienced two major disasters; first the 9/11 terrorists attacks which resulted in the creation of the Department of Homeland Security (DHS), which now has jurisdiction over FEMA; and second, Hurricane Katrina. I understand that DHS and not FEMA handles preparedness, but hope that the worthwhile goals established by FEMA for preparedness have been adopted by DHS. I will be curious to learn more about the National Preparedness Plan and how close we are to achieving the goal of reducing risk of loss of life by 10 percent and reducing the risk of property loss by 15 percent in 2007.

We are now 2 months into the hurricane season, and fortunately we have not had a major storm. Nonetheless, we cannot let down our guard with respect to being ready for that next major storm. Although my State of Oklahoma does not have the threat of hurricane season hanging over our heads, we do have frequent and often very destructive tornados. In fact, it was the tornados in 1995 which destroyed several communities in the Oklahoma City area that prompted me to draft S. 1691. While we cannot prevent natural disasters, we can certainly be better prepared for them. After touring the aftermath of the 95 tornadoes in my state, I became a believer in encouraging communities to take steps prior to a natural disaster to lessen the impacts. In Oklahoma, that means that families are encouraged to have in their homes "safe rooms" that are designed to withstand tornado force winds and resist penetration by windborne objects and falling debris.

Whatever the natural disaster be it tornado, hurricane, earthquake, fire or flood, communities and individual homeowners can take steps to lessen the impact of such events. We will be hearing today from several witnesses on the success stories and, I suspect, some things we could be doing better.

Finally, following Katrina in the Gulf States there has been much concern about the clean up of debris, especially in New Orleans. I have been contacted by several that are unhappy with the pace of debris removal and the disposal of that debris once it has been picked up. Given the potential long-term health and liability issues of improperly disposed debris the committee will be following this issue very closely. Today's hearing will be our first attempt to get on the record what is happening on this issue, but we will be doing additional follow-up.

Again, thank you to our witnesses and I look forward to hearing your testimony.

Senator INHOFE. Senator Jeffords.

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator JEFFORDS. Thank you, Mr. Chairman. I want to thank you for holding this hearing. For the last several Congresses I have been interested in taking a closer look at the role of the Stafford Act in determining how our Nation responds to terrorist events, as

well as natural disasters. I am glad that we are finally gathered here to address this critical issue.

Before we begin, I think it would be worthwhile to remember where we have been. Over the last 200 years, we have moved from an ad hoc approach to disaster response to a coordinated, orderly approach under the Stafford Act, named after my good friend and mentor, Senator Bob Stafford. On September 11th, the Nation was struck by a terrorist attack. A week later, as I toured Ground Zero, I saw firsthand how the Stafford Act and FEMA helped to reduce the impact of these events. FEMA's response was orderly and effective.

But when the Department of Homeland Security was formed and FEMA was brought into that Department, I believe this was a terrible mistake, one that failed to take into account the unique mission of FEMA in responding to natural disasters. As we paid dearly for this mistake, then Hurricane Katrina struck the Gulf Coast last August.

There have been many legislative proposals to modify our disaster response program, some specific to Hurricane Katrina and some not. However, I believe the biggest risk in a post-Katrina environment is that the flurry of legislative activity after a disaster becomes the norm rather than the exception. Our Nation deserves a Federal disaster response that is coordinated, consistent, and predictable. That is why we passed the Stafford Act, which has served us well over these many years. As we move forward now, we must ensure that our States and our communities know what to expect as they develop their own emergency response plans.

As Congress determines what the next steps are, we must ask ourselves, in the aftermath of Katrina, did we witness the performance failure by the Federal agencies or are we missing needed authority? Today, this committee, as the committee of jurisdiction over the Stafford Act, is seeking to answer that question.

I look forward to the testimony of our witnesses and I look forward to cooperating with you, Mr. Chairman, as we consider the legislative changes that may be necessary to respond to our findings today. Thank you very much.

[The prepared statement of Senator Jeffords follows:]

STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Mr. Chairman, I want to thank you for holding this hearing.

For the last several Congresses, I have been interested in taking a closer look at the role of the Stafford Act in determining how our Nation responds to terrorist events, as well as natural disasters. I am glad that we are finally gathered here to address this critical issue.

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On September 11th, the Nation was struck by a terrorist attack. A week later, as I toured Ground Zero, I saw firsthand how the Stafford Act and FEMA helped to reduce the impact of those events. FEMA's response was orderly and effective.

But then the Department of Homeland Security was formed, and FEMA was brought into that Department. I believe this was a terrible mistake, one that failed to take into account the unique mission of FEMA in responding to natural disasters. And we paid dearly for that mistake when Hurricane Katrina struck the Gulf Coast last August.

There have been many legislative proposals to modify our disaster response program some specific to Hurricane Katrina, some not. However, I believe that the biggest risk in a post-Katrina environment is that the flurry of legislative activity after a disaster becomes the norm, rather than the exception.

Our Nation deserves a Federal disaster response that is coordinated, consistent and predictable. That is why we passed the Stafford Act, which has served us well over these many years.

As we move forward, we must ensure that our States and our communities know what to expect as they develop their own emergency response plans. As Congress determines what the next steps are, we must ask ourselves: In the aftermath of Katrina, did we witness a performance failure by the Federal agencies, or are we missing needed authority?

Today, this committee, as the committee of jurisdiction over the Stafford Act, is seeking to answer that question. I look forward to the testimony of our witnesses, and I look forward to cooperating with you, Mr. Chairman, as we consider legislative changes that may be necessary to respond to our findings today.

Thank you.

Senator INHOFE. Thank you, Senator Jeffords.

If there is one Senator on this committee that has been more sensitive to the problems, it is our good friend, the junior Senator from Louisiana, Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator VITTER. Thank you, Mr. Chairman and Ranking Member Jeffords. Thank you for holding this important hearing.

Obviously, it is very appropriate, very timely that we carefully review the Stafford Act after an incident of Hurricane Katrina and Hurricane Rita, which put it to the test probably more than any other in history. So I think it is very appropriate that we review it carefully.

Clearly, there were and is monumental debris removal in the Gulf Coast because of these hurricanes, already 25 times more debris hauled away than in New York after September 11th, with much, much more work to go. In fact, the President, noting how much more we have to go, just extended the 100 percent Federal reimbursement of debris removal in five parishes through the end of the year.

So that shows the magnitude of the event; that shows how much the Stafford Act has been put to the test. I think there are many things we can learn from this experience to update and improve the Stafford Act, at least with large events like this in mind.

I will submit my full statement for the record, but thank you for this hearing so that we can make sure we take advantage of our new knowledge and update the Stafford Act appropriately.

[The prepared statement of Senator Vitter follows:]

STATEMENT OF HON. DAVID VITTER, U.S. SENATOR FROM THE STATE OF LOUISIANA

Thank you Chairman Inhofe and Ranking Member Jeffords for having this very important hearing on the Stafford Act and how this legislation could be improved to be better prepared to respond for future disasters.

Almost 11 months ago, Louisiana and the other Gulf States experienced the most destructive natural disaster in our Nation's history when Hurricane Katrina struck the Gulf Coast. In Louisiana, tragically, Hurricane Katrina left over 1,100 people dead with more still missing. Hurricane Katrina represents one of the first times in history where a major metropolitan area was evacuated and its economic activity virtually ceased. Thousands of American families lost their homes, their jobs, their communities, and sadly too many lost their lives or loved ones. We must make sure this devastation absolutely never happens again.

The Stafford Act provides the foundation for recovery and response. I look forward to hearing today about any ideas and suggestions for improving the Stafford Act including topics such as debris removal and other emergency work that are very important to Louisiana's recovery. Since Hurricanes Katrina and Rita, Louisianans have had the challenge of rebuilding their homes and getting their lives back together.

One of the greatest challenges Louisianans faces in a post-Katrina world is the removal of debris which is a monumental task in itself. There is an unprecedented amount of debris after Hurricanes Katrina and Rita. We have made much progress in cleaning up the debris and have already hauled away 25 times more than the debris in New York after September 11, but we still have a long way to go.

Debris removal is critical to ensuring that Louisiana parishes and cities can continue vital rebuilding and recovery work. Recently, the President extended 100 percent Federal reimbursement of debris removal in 5 parishes through the end of the year, which is so important to Louisiana's recovery efforts. With the amount of debris left in the wake of Hurricane Katrina, this extension will help these parishes move forward as they continue to clean up and rebuild.

Coordination between agencies involved and with the State and local government is crucial to bringing results that will ensure the clean up of debris is done effectively, safely and timely in order for Louisianans to progress with their recovery efforts. We have a lot to learn from Hurricane Katrina and need to do all we can to be better prepared for future storms. I look forward to hearing from the witnesses and thank you for all you have done to help the Gulf Coast recover.

Senator INHOFE. Thank you, Senator Vitter.

Senator Obama is here. I didn't know whether you wanted to be recognized for an opening statement.

Senator Obama.

OPENING STATEMENT OF HON. BARACK OBAMA, U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator OBAMA. Thank you very much, Mr. Chairman, Ranking Member Jeffords. Thank you so much for holding this hearing. Obviously, I am deeply interested in what Senator Vitter has to say, because he is dealing with some of the devastation in Louisiana, and has been for the last year.

Before last summer, the Stafford Act, I think, was just an abstract law for many of us. We had had some experiences, obviously, with tornadoes and floods in Illinois, but nothing compared to what happened on August 29, 2005, when Katrina made landfall. So now it is our responsibility to determine what we can do to ensure that the Stafford Act and the agencies that implement it have the flexibility and resources they need to respond to the next Katrina.

I just completed my first trip to New Orleans last week and was astonished by what I saw. No matter how many times you hear about it, no matter how many times you see it on the news, no matter how many times you meet folks who have no home to return to, nothing prepares you for the terrible reality and scope of the devastation.

I asked the folks there how we in the Senate can help. They had had almost a year to think about it. They had some good answers.

One thing that they asked was that the Stafford Act establish a magnitude of disaster above major disaster level. They suggested a catastrophic disaster designation that could provide the long-term resources and assistance that such a disaster would require.

They asked for an increased Federal share in paying for emergency work, work such as the clearance and removal of debris and temporary restoration of essential public services. After Katrina,

homeowners were forced to pay for debris cleanup because FEMA wouldn't foot the bill.

They asked for changes in housing assistance. Clearly, FEMA was not equipped to address the housing needs of the displaced. We need to fix that problem in any reauthorization of the Stafford Act.

I also met with the community members from New Orleans East, which has the third largest Vietnamese population in the United States. Half of this community has returned and they are doing their part to help revive the city, but the city placed a landfill in the community, hastily constructed in the aftermath of the storms. Unfortunately, they neglected to put a clay liner in the landfill, and residents are concerned that toxic waste will soon be seeping into the community they are so desperately trying to rebuild. I want to know what can be done potentially within the Stafford Act to ensure that environmental protections are respected.

So, Mr. Chairman, I look forward to hearing what the witnesses have to say about this and other issues related to the Stafford Act. Thank you very much for holding this hearing.

[The prepared statement of Senator Obama follows:]

STATEMENT OF HON. BARACK OBAMA, U.S. SENATOR FROM THE STATE OF ILLINOIS

Mr. Chairman, thank you for holding this hearing.

Before last summer, the Stafford Act was just an abstract law for many of us. That changed on August 29, 2005, when Katrina made landfall. Now, it's our responsibility to determine what we can do to ensure that the Stafford Act, and the agencies that implement it, have the flexibility and the resources necessary to respond to the next Katrina.

I made my first trip to New Orleans last week, and I was amazed by what I saw. No matter how many times you hear that parts of New Orleans are still buried under tons of debris, no matter how many times you meet folks who have no home to return to, nothing prepared me for the horrifying reality that is New Orleans.

I asked the folks there how we in the Senate can help them. And, because they've had almost a year to think about these things, they had some good answers.

These folks in New Orleans asked that the Stafford Act establish a magnitude of disaster above the "major disaster" level. They suggested a "catastrophic disaster" designation that could provide the long-term resources and assistance that such a disaster would require.

They asked for an increased Federal share in paying for "emergency work" work such as the clearance and removal of debris and the temporary restoration of essential public services. After Katrina, homeowners were forced to pay for debris cleanup because FEMA wouldn't foot the bill.

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I look forward to hearing what the witnesses have to say about this and other issues relating to the Stafford Act.

Thank you again Mr. Chairman and Mr. Ranking Member for holding this hearing.

Senator INHOFE. Thank you, Senator Obama.

Let me share in my opening remarks, Senator Obama and Senator Vitter, you weren't here, but I made kind of an off-the-cuff remark about FEMA. Mr. Shea, I hope you will forgive me, but I remember so well in the Murrah Federal Office Building disaster in

1995, in my State of Oklahoma—at that time Mr. James Lee Witt who was the Director of FEMA—it could not have gone smoother. I often look at what is happening today, what happened during Katrina and relate that to how well it performed in my State of Oklahoma in 1995.

So we will go ahead and start. But before we do that, I want to see if Senator Vitter might have some very important person that he wants to introduce to this committee.

Senator VITTER. Absolutely. Thank you very much. My brand new chief of staff in the Senate, Lee Vitter, is here helping me, joining us at the hearing.

Senator INHOFE. Yes, please.

All right, in our first panel we have Robert Shea, Acting Director of FEMA; Major General Don Riley, Director of Civil Works for the Corps of Engineers; Deborah Dietrich, the Director of Office of Emergency Management of the EPA; and Mr. Corey Gruber, Executive Director of the National Preparedness Task Force, Preparedness Directorate, at Department of Homeland Security.

So we will take them in that order. For other members that come in, we do close down our opening statements after the witnesses start talking so you won't be interrupted.

We will start with you, Mr. Shea.

STATEMENT OF ROBERT SHEA, ACTING DIRECTOR OF OPERATIONS, FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION, DEPARTMENT OF HOMELAND SECURITY

Mr. SHEA. Good morning, Chairman Inhofe, Ranking Member Jeffords, and committee members Senator Vitter and Senator Obama. My name is Robert Shea. I am the Acting Director of Operations for the Federal Emergency Management Administration.

In preparing for this hearing, FEMA was asked to specifically address two major issues: first, our policies and procedures relating to debris removal after a disaster, and, second, the impact of the Disaster Mitigation Act of 2000. FEMA appreciates the opportunity presented by this committee to address these issues.

With regard to debris removal, disaster-related debris may consist of downed trees, that is, vegetated debris; destroyed personal property, including home contents and automobiles; hazardous waste; construction and demolition material; or even damaged boats and other debris that obstruct waterways. State and local applicants must comply with environmental and historical preservation laws when removing disaster-related debris. Developing and executing a plan to remove and dispose of large quantities of debris requires coordination with numerous entities at all levels of government and, most importantly, with the citizens of the community.

In short, State and local governments are primarily responsible for removing disaster-related debris from their communities. FEMA does provide funding for the removal of eligible debris and may provide technical assistance, if requested, by the State.

While FEMA does not directly manage State and local debris operations, we do take an active role in providing technical assistance and oversight. FEMA deploys debris specialists to advise State emergency management and local officials on public assistance eli-

gibility, appropriate contracting procedures and monitoring, and environmental compliance issues. This, of course, is in conjunction with the Environmental Protection Agency.

In addition, FEMA often requests the U.S. Army Corps of Engineers to assist in providing technical assistance and to work with the State to develop an overall debris management plan for the disaster recovery process. FEMA may also deploy monitors to provide oversight of debris operations to ensure that FEMA funding is provided for eligible debris removal, to ensure compliance with environmental regulations and programmatic guidelines, and to reduce the occurrence of waste, fraud, or abuse.

The Corps of Engineers and FEMA are the two primary or lead agencies for Emergency Support Function No. 3 under the National Response Plan.

In the cases of Hurricanes Katrina and Rita, widespread destruction resulted in unprecedented quantities of debris. FEMA estimates that Katrina and Rita resulted in a staggering 118 million cubic yards of debris, more than double the amount of debris produced by the four hurricanes that struck Florida in 2004 and six times the amount of debris created by Hurricane Andrew. To truly understand the magnitude, you have to imagine 368 football fields filled with debris stacked to 190 feet high in order to get an order of magnitude here. This amount of debris would require approximately 6 million average-sized dump trucks.

Senator INHOFE. State that once again, what you just now said about relating it to a football field.

Mr. SHEA. Yes. The magnitude is that it would be the equivalent of 368 football fields with debris stacked 192 feet high on each field. Or, another way of looking at it is every single inch of Washington, DC, the entire city, would be covered by at least a half a foot of debris.

To haul this amount of debris——

Senator INHOFE. Some people say it already is, but go ahead.

[Laughter.]

Mr. SHEA. That, sir, is a different issue.

FEMA has developed substantive guidance documents and policies to assist local communities in developing and executing debris management plans. We also offer debris management training to State and local officials, and will continue to look for ways to educate and help communities plan the post-disaster removal operations. We provide technical assistance to State and local governments in developing debris management plans in peacetime and encourage them to hire standby contractors prior to disasters occurring. FEMA will always be ready to provide help at the time of a disaster, but, for our efforts to be successful, our State and local partners must be prepared to act quickly and responsibly.

With respect to mitigation, in addition to the authorities the Stafford Act gives FEMA to assist State and local governments in repairing critical infrastructure and removing debris following a disaster, it also provides a variety of mitigation programs and activities. A recent independent study conducted by the Multihazard Mitigation Council at the request of Congress concluded that every dollar spent on mitigation saves society an average of $4. This

translates into hundreds of millions of dollars in savings each year, and it really begins with sound mitigation planning.

The mitigation planning process is not static, it changes and is refined over time. One of our greatest successes has been the ability to work closely with our State, local, and tribal partners in this effort, drawing on the experiences that they have gained in preparing and implementing their plans over the last several years.

This past May, FEMA invited one State from each of our FEMA regional offices to discuss the plan update process. At this meeting we asked the States to identify some of their successes and perceived benefits from going through the mitigation planning processes. These benefits fell into major categories: improved risk assessment, interagency coordination and planning committees, and coordination with local planning committees. The importance of this is that it really drives that planning process all the way through all levels of government; Federal, State, and local.

Since the Hazard Mitigation and Relocation Assistance Act of 1993 amended the Stafford Act, the principal mitigation activities funded under the Hazard Mitigation Grant program include mitigation planning, acquisition of flood-prone properties, conversion to open space——

Senator INHOFE. Mr. Shea, try to wrap up your statement. We are going to try to confine this to 5 minutes. Your entire statement will be made part of the record, but try to wrap up, if you would.

Mr. SHEA. I have a few more comments to make here.

These are essentially the principal activities of the PDM program, instituted following the Disaster Mitigation Act of 2000 amendments. To date, FEMA has obligated nearly $1.5 billion for planning, acquisition, and elevation activities through the Hazard Mitigation Grant Program and our Predisaster Mitigation Program, the companion. If we follow the finding of the Mitigation Council's report, every dollar spent on mitigation saves an average of $4. We can conclude that mitigation grant programs have provided savings to this country of approximately $6 billion.

Thank you for the opportunity to appear before the committee, and I look forward to answering any questions you might have.

Senator INHOFE. Thank you, Mr. Shea.

General Riley.

STATEMENT OF MAJOR GENERAL DON T. RILEY, DIRECTOR OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

General RILEY. Good morning, Mr. Chairman. I am Major General Don Riley, Director of Civil Works for the Army Corps of Engineers. Thank you for the opportunity to testify.

The Corps has had a longstanding and highly effective relationship in support of FEMA under the Federal Response Plan and now the National Response Plan. We also have major responsibilities for disaster planning response and recovery within our own authority under Public Law 84–99, our civil works infrastructure missions of Flood Damage Reduction, Navigation, and Hydropower. Furthermore, we have our inherent responsibility to support DOD in execution of any of the Department's disaster relief missions.

Under the National Response Plan, the Corps has primary responsibility for Emergency Support Function No. 3, Public Works

and Engineering, and several assigned tasks in support of other ESFs specified in the plan. Our mission portfolio during major disaster response will typically include activities such as provision of ice and water, debris clearance and disposal, temporary roofing, emergency power to critical facilities, and assistance to FEMA with provision of temporary housing.

Based on 14 years of experience in executing missions under the FRP and NRP, the Corps believes the Stafford Act and the NRP have the empowering authorities and tools that allow us to be successful in performing our assigned missions. The Corps, through our Floodplain Management Services Program, provides advice and assistance to communities in terms of reducing their flood risk with regard to community infrastructure. The Corps Flood Damage Reduction Authorities also provide a broad range of flood mitigation tools that are used in supporting State and local flood mitigation objectives. Additionally, FEMA's Regional Mitigation staff and Corps districts provide mitigation services year-round to local communities and States.

Over the last 3 years, there has been a significant increase in planning whereby the Corps, in coordination with FEMA, has provided States with planning tools and assisted in preparedness efforts, especially in the areas of commodities planning, temporary power, and debris management. The Corps will also be working closely with DHS Preparedness Directorate to ensure that DHS programs and grants support the building of State and local capabilities within our support function.

During the 2005 hurricane season, FEMA tasked the Corps to take the lead for Federal debris management assistance in certain localities in Mississippi, Louisiana, Alabama, and Texas. The Corps worked closely with EPA, FEMA, and other Federal, State, and local governments to assist in these debris removal activities.

Thank you once again, Mr. Chairman, for allowing me to testify, and I would be happy to answer any questions.

Senator INHOFE. Thank you, General Riley.

Ms. Dietrich.

STATEMENT OF DEBORAH DIETRICH, DIRECTOR, OFFICE OF EMERGENCY MANAGEMENT, ENVIRONMENTAL PROTECTION AGENCY

Ms. DIETRICH. Good morning, Mr. Chairman and members of the committee. I am Deborah Dietrich, Director of the Office of Emergency Management in the Office of Solid Waste and Emergency Response, EPA. Thank you for the opportunity to discuss EPA's role under the National Response Plan, known as the NRP and Agency response efforts supporting FEMA under the Stafford Act following Hurricane Katrina. I will summarize my statement, but I ask that my entire written statement be entered in the record.

The magnitude of the damage from Hurricane Katrina presented significant challenges for EPA and our partners at the Federal, State, and local levels. As with other Federal agencies, EPA's involvement is facilitated through the NRP. While there is always room for improvement, we believe that the NRP provided the framework for an effective response to the most destructive natural disaster in the history of the United States.

Under the NRP, EPA is the coordinator and primary Agency for Emergency Support Function No. 10, Oil and Hazardous Materials Response. Our primary activities under this support function include: efforts to detect, identify, contain, clean up, or dispose of oil or hazardous materials; removal of drums and other bulk containers; collection of household hazardous waste; monitoring of debris disposal; air and water quality monitoring and sampling; and protection of natural resources. EPA is also a support Agency for a number of other Emergency Support Functions. For example, under ESF No. 3, Public Works and Engineering, which addresses solid waste debris removal, EPA provides necessary support to the U.S. Army Corps of Engineers by assisting in the location of disposal sites, providing safety guidance for areas affected by hazardous materials, assisting in the management of contaminated debris, and by coordinating or providing assessments, data, expertise, technical assistance, and monitoring.

In response to Hurricane Katrina and in coordination with our partners, EPA performed a wide variety of tasks including: response to more than 70 emergency situations including hazardous material releases and oil spills; assessment of more than 4,000 water and wastewater systems to determine viability after the storm; environmental monitoring and sampling of water, air, floodwater, and residual sediment resulting in more than 400,000 analyses. EPA conducted extensive outreach through the media and the Agency Web site, and distributed millions of fliers to alert the public and communities about potential risk and methods to address handling of potentially contaminated debris. EPA also responded to FEMA's request for assistance and rescued approximately 800 evacuees.

Removal and proper disposal of the unprecedented amount of debris in the affected areas has been a major undertaking since the beginning of the response. EPA has worked closely with the Corps, FEMA, and State and local governments to assist in debris removal activities. It is important to point out, however, that local and State governments are responsible for the permitting and operation of landfills where this debris is being disposed. However, EPA has provided assistance to the States in developing guidance regarding demolition of structurally unsound buildings, as well as guidance for debris burning. Along with FEMA and the U.S. Army Corps, EPA provided assistance to the States as they developed their debris removal plans.

As I mentioned before, the management and disposal of nonhazardous debris is a State and local responsibility. However, at the request of the States of Louisiana and Mississippi, EPA assigned staff to provide support by visiting debris disposal sites and observing waste handling practices, including sorting and management at emergency disposal sites. Observations of waste handling practices were reported to State and local authorities for any appropriate follow-up action.

EPA's mission in Alabama and Mississippi is now complete, and any remaining activities have been transitioned to the States. In Louisiana, EPA activities are winding down and are now focused on the collection and disposal of household hazardous waste, land-

fill monitoring, and environmental sampling. These efforts are generally occurring in the St. Bernard and Orleans parishes.

The response to Hurricane Katrina has clearly necessitated strong cooperation among Federal, State, and local government agencies. We believe that the Stafford Act, the National Response Plan, and the preparedness activities under the National Incident Management System contributed positively to our ability to respond to Hurricane Katrina.

That concludes my statement, Mr. Chairman. I would be happy to answer any questions that you or the committee members may have.

Senator INHOFE. Your timing is perfect, Ms. Dietrich. Thank you very much.

Ms. DIETRICH. Thank you.

Senator INHOFE. Mr. Gruber.

STATEMENT OF COREY GRUBER, EXECUTIVE DIRECTOR, NATIONAL PREPAREDNESS TASK FORCE, PREPAREDNESS DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY

Mr. GRUBER. Good morning, Chairman Inhofe, Senator Jeffords. Senators, thank you very much for the opportunity to appear before the committee and to discuss important preparedness initiatives in the Department of Homeland Security.

Our Nation's emergency and public safety services are quite simply the finest in the world. Yet, without a consistent, logical, and sustainable way to prepare for 21st century homeland security challenges, unity of effort and measurable operational readiness have proven to be illusive.

The Nation needs a dedicated and sustained national effort to organize, guide investments, and strength national preparedness. Much has been accomplished, but we know from painful experience that there are still systemic infirmities in our preparedness.

Secretary Chertoff and Under Secretary Foresman have made it clear that reforms are necessary and will be accomplished through a collaborative national effort. The Second Stage Review and the establishment of the Preparedness Directorate in July 2005 are rapidly integrating preparedness programs, activities, and services to meet the needs of our most important asset: our homeland security professionals across this great Nation.

Building truly interchangeable homeland security capabilities takes more than merely embracing a loosely defined concept like "all hazards." We have turned this concept into a systematic planning methodology using a capabilities-based framework. This meets the requirements of Homeland Security Presidential Directive 8, titled "National Preparedness." In that directive, the Secretary was charged with developing a National Preparedness Goal. The interim National Preparedness Goal was published in March 2005, and the final National Preparedness Goal, which underwent additional analysis and revision as a result of Hurricane Katrina, will be published shortly.

The mission of our Preparedness Directorate is to implement the National Preparedness goal by preparing individuals, the public, and private sector organizations for disasters by defining and fostering a culture of preparedness, educating stakeholders, strength-

ening prevention and resilience, and developing the next generation of homeland security professionals. This is a shared national mission, not simply a Federal responsibility.

Let me address one example of how the Directorate is approaching a key aspect of preparedness. Following Hurricane Katrina, the President directed the Department to conduct an immediate review of emergency plans for the Nation's major cities. Congress subsequently tasked both the Department of Homeland Security and Department of Transportation to review plans for all States and territories and 75 cities with particular emphasis on evacuation planning.

The results of the Nationwide Plan Review were the most comprehensive assessment of catastrophic planning yet undertaken in this country. DHS is currently working with participants in the review to improve their plans, support training and exercise initiatives, and engage in discussions of how to meet catastrophic challenges identified in our final report. I would be happy to discuss this review in greater detail, should you have questions.

To build the National Preparedness System and to respond to recommendations in the Plan Review, the Preparedness Directorate has established a new National Preparedness Task Force, for which I serve as the Executive Director. The Task Force intent is to bring together preparedness policy, planning, exercises, evaluation, and field management assets to create comprehensive solutions to the preparedness challenges we have outlined.

As Secretary Chertoff stated, DHS must operate as an all hazards, fully integrated organization. The Federal Emergency Management Agency, our components, States and communities across the country, must be prepared to respond and recover from all disasters, whether caused by nature or terrorism. While FEMA and its partners are engaged in response and recovery, which can often be a protracted duration, the Preparedness Directorate ensures that there is no disruption to preparedness programs, activities and services to the balance of the Nation.

By focusing FEMA on its core competencies of response and recovery, and a new Directorate on preparedness, the Secretary acknowledged the critical nature of both missions to the Nation's homeland security.

In closing, Mr. Chairman, the President and Congress have consistently identified the need for specific and measurable goals for preparedness, national cooperation, application of assistance where the need is the greatest, determination of essential capabilities that communities need, and advanced planning processes. HPSD–8, the lessons of Hurricane Katrina, and the strategic requirements of the war on terrorism require transformation of the way we approach preparedness in the 21st century.

Thank you again for providing the opportunity to speak with you today, and I look forward to answering your questions.

Senator INHOFE. Thank you, Mr. Gruber.

Let me just go ahead and start with a question to all of you, because there is a lot of confusion not just in the general public, but even on this panel, as to who does what, and I would like to discuss the assignment of responsibility for water borne debris and spills in disasters such as Katrina, and specifically what would be the

role of the EPA, the Coast Guard, and the Corps of Engineers. Let's start with you, Mr. Shea.

Mr. SHEA. Well, essentially, FEMA has overall responsibility based on the Stafford Act, so we are kind of the coordination mechanism for a lot of this, including—watery debris is the specific issue?

Senator INHOFE. Yes, I understand that, but then that assignment is being made——

Mr. SHEA. Yes.

Senator INHOFE [continuing]. By you. Kind of clarify what roles these agencies would play.

Mr. SHEA. Once again, I think in this particular case, if it is watery debris, typically, FEMA would turn to the Coast Guard, but with input from the Environmental Protection Agency and also from NOAA about their areas of expertise in removal of watery debris.

Senator INHOFE. OK, but it would then be the Coast Guard, if you were to assign the responsibility, to have results.

Mr. SHEA. Yes. Of course, as in other cases, if State or local government would like to shoulder those responsibilities, we would be pleased to have them shoulder those responsibilities.

Senator INHOFE. All right.

General Riley?

General RILEY. Yes, Mr. Chairman. I think two authorities that you have given the Corps, one under the Clean Water Act, section 404, to permit use and filling of dredged materials and then, second, under the River and Harbors Act for navigable water, so any discharges in navigable water. So those are our two concerns that we have authorities to permit.

Senator INHOFE. OK.

Ms. DIETRICH. Well, for EPA, we are the primary lead Agency under ESF 10 under the National Response Plan, and FEMA looks to us to address oil and hazardous substances. Now, we work very closely with the Coast Guard. We actually share responsibility with the Coast Guard under that ESF.

Senator INHOFE. But structurally, then, it goes right back to FEMA, though, is that correct?

Ms. DIETRICH. Right. For a Stafford Act response, we would get a mission assignment from FEMA under ESF 10. The way we divvy up our responsibilities, Coast Guard handles the coastal area, EPA generally handles the inland area, but we work very closely with the Coast Guard on a shared responsibility.

Senator INHOFE. All right.

Any comment, Mr. Gruber?

Mr. GRUBER. Sir, I would simply add that next week, the Coast Guard is hosting a conference on maritime recovery operations and Under Secretary Foresman will be attending. So there is very active dialogue and efforts underway.

Senator INHOFE. All right. We will probably have representation there.

Let's say in the event of a dirty bomb, a different type of a problem, what agencies would be involved in the cleanup in the contaminated debris zone, and who would be in charge and so forth?

Mr. Shea.

Mr. SHEA. Under the Stafford Act, again, basically, we would look to the Emergency Support Function structure, and that would include, undoubtedly, the Department of Energy for their expertise and responsibilities, the Environmental Protection Agency would be a key actor. I very much suspect the Corps of Engineers would be a partner in this type of an event. So we would have to collaborate across a number of different governmental agencies in order to bring the appropriate expertise to the table and to address whatever the issues were as the result of a dirty bomb.

Senator INHOFE. So you think, then, the Corps of Engineers, then, would be receiving most of the responsibility?

Mr. SHEA. Once again, if State or local government were unable or unwilling to do it, FEMA would then look to a mission assignment process with the Corps of Engineers, I think, as probably our primary mechanism, although there are independent authorities and responsibilities that also deal in this area with the Department of Energy and the Environmental Protection Agency.

Senator INHOFE. So would the standard procedures of the NRP be deployed, or some other system?

Mr. SHEA. Right. In other words, we would use the mechanisms available under the National Response Plan, gather the experts together, and then pick the best course of action based on the issues that we knew were coming to bear on that circumstance.

Senator INHOFE. All right.

Do any of the rest of you, have any comment on that?

General RILEY. Mr. Chairman, I think in the Corps' perspective, FEMA would most likely look to us for technical expertise, if there were damaged structures, to look at the structural integrity of those structures. They might also task us for temporary housing or temporary roofing or debris removal. But it would probably be limited to that unless there was anything else to do with navigable waterways or flood control used under our own authority.

Senator INHOFE. All right.

Any other comments on that?

Ms. DIETRICH. I would just agree with Mr. Shea, and I think that we would work closely with FEMA. DOE would obviously play an important role, particularly early in the response, in terms of radiation contamination. I think EPA would play a role on the longer term cleanup in such a situation.

Senator INHOFE. All right.

Mr. GRUBER. Sir, I might just add one point. We have tested plans, procedures, and protocols in some of the largest exercises we have done in the country, particularly the top officials exercise, the second one, which had an RDD scenario. I think Senator Obama will remember because Illinois was a participant in that exercise. So we do test these routinely in exercises.

Senator INHOFE. All right, thank you.

We have been joined by Senator Clinton.

Senator Clinton, in my opening statement I mentioned that you and Senator Vitter probably would have the greatest personal interest from the experiences in your States as to the responsibilities of various parties, and also that while we don't always agree on issues, there is one that we did agree on, and that is that FEMA

worked a lot better in the old days than it works now, in my limited view. But we are going to try to correct that.

So even though we normally forego opening statements once the witnesses start, if you have an opening statement, I would like to have you do that at this time.

OPENING STATEMENT OF HON. HILLARY RODHAM CLINTON, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator CLINTON. Thank you so much, Mr. Chairman. Thank you for your leadership on this, and it is a pleasure working with you on such an important issue.

I will ask unanimous consent that my entire opening statement be made a part of the record. I want to highlight a few points.

We are quickly moving toward the fifth anniversary of the attacks of 9/11, and I have personally met with many individuals who have been severely impacted by both their physical and mental health conditions due to what they were subjected to during the attack and in the days, weeks, and months after; people who were first responders who bravely rushed in, people who were construction workers, people who were sanitation workers, people who worked in the streets to get the telecommunications back up so the Stock Exchange could open, people who were transportation workers. So many people who were there for months on an end, as well as other workers and residents of downtown New York. I have called for and welcome both the creation of the current World Trade Center Worker Health Monitoring Programs and the efforts of Dr. John Howard, Director of NIOSH, in his capacity as the Federal Coordinator for 9/11 Health.

The Federal Government, however, has no plan to deal with this long-term health crisis. In fact, the Daily News in New York published a series of stories on these individuals and about what they have suffered from, the kind of impact it is having upon people who can no longer perform their duties as firefighters or police offices because of the diseases that have materialized, the decreased breathing capacity and other ailments that have emerged since 9/11.

Mr. Chairman, I ask unanimous consent that these stories from the Daily News be made a part of the record.

Senator INHOFE. Without objection.

[The referenced documents follow on page 111–120.]

Senator CLINTON. You know, Mr. Chairman, I don't think we know whether Hurricane Katrina will have long-term health impacts. Some researchers are looking into that. But I think we should pay special attention to long-term medical and mental health needs. They should be tracked, monitored, and treated after significant natural or man-made disasters. I hope that we can look into that issue on this panel.

I have also been working with my colleague, Senator Voinovich, because his State sent some first responders to Ground Zero. They came home and began suffering from health effects. So this is a problem directly related to the experience that so many people had, trying to cope with this overwhelming disaster.

I also am concerned about Hurricane Katrina, the subsequent failed response that we have, unfortunately, been living with now

for nearly a year. But we just experienced significant floods in Upstate New York and, as a result, you know, tens of thousands of people lost their homes, lost their businesses. In Queens we are experiencing a massive blackout. Con Ed can't figure out what caused it. They have had a horrible time trying to figure out how to fix it. We have seen so many businesses destroyed, particularly food-related businesses. You know, as I travel around, I just feel that we are not prepared to respond to all of these problems.

You know, I think that because each of the problems that I mentioned have national implications, whether it is our electricity grid or the impact on our oil supply out of the Gulf, or whatever it might be, we need to take a hard look at what kind of Federal assistance should be available, and the Stafford Act is our key to doing that.

Finally, I hope we can address the lessons learned from Katrina. I have a stack of reports here—they are almost too heavy for me to lift—that have been conducted by the House, the Senate, the GAO, the White House, independent experts. After Hurricane Katrina, I advocated for a single independent commission modeled after the 9/11 Commission, because I think we have to learn these lessons. You know, there is a tremendous amount of wisdom in what went wrong as well as what went right. I met with the Red Cross the other day, and they were very candid in telling me what they thought went right and what went wrong. But we have these disparate reports. I hope that we can figure out how to really zero in on lessons learned.

One of the reasons that the Chairman and I have supported trying to go back to an independent FEMA is that when everybody is in charge, nobody is in charge. When disaster preparedness and response is lodged in a gigantic bureaucracy, it is easy to get lost, particularly when that bureaucracy was formed after 9/11 to deal with the incredibly dangerous problem of terrorist attacks. So if the Stafford Act authorities need to be changed, clarified, expanded, or even contracted, I hope we will have the courage to make those changes. I think everyone knows the Chairman is a pretty determined leader, and I really trust that we will get to the bottom of a lot of this and make some of the changes we need.

Thank you, Mr. Chairman.

[The prepared statement of Senator Clinton follows:]

STATEMENT OF HON. HILLARY RODHAM CLINTON, U.S. SENATOR FROM THE STATE OF NEW YORK

Thank you, Mr. Chairman, for holding this critically important hearing on the Stafford Act and the future of America's emergency preparedness and response system.

Obviously, this Nation has experienced significant disasters throughout our history. Just in the past 15 years alone we have seen earthquakes in California, hurricanes and tornadoes throughout the Gulf and plains States—even now in New York—and of course the terrorist attacks in Oklahoma City and the attacks of September 11, 2001, that devastated New York and damaged the Pentagon.

It is clear that with the National Hurricane Center's predictions of a strong hurricane season this year, coupled with the new threats faced by this Nation from terrorists, that we must ensure that the Stafford Act provides our government with all the necessary tools to guard against, prepare for, and respond to any disaster be it man-made or natural.

This hearing is extremely important and timely for me.

Mr. Chairman, nearly 5 years ago, on September 11th, terrorists murdered almost 3,000 people. 343 firefighters and paramedics and 60 police officers lost their lives. The single deadliest attack on American soil in our history.

In the aftermath this Congress responded swiftly to provide not only the assistance available under the Stafford Act but with other forms of financial assistance to rebuild New York City because of the severity of the attacks.

We have seen similar bi-partisan, bi-cameral support in the aftermath of Hurricane Katrina where this Congress has acted outside of the current Stafford Act structure to provide the kind of long-term, rebuilding support needed for the impacted States along the Gulf Region.

But Mr. Chairman we also have a great deal more to do not only in the Gulf but in New York as well.

Mr. Chairman, when the Twin Towers fell in New York City there were thousands of firefighters, police officers, first responders, workers, and other volunteers who stood on the piles that were once buildings to look for any survivors.

Thousands of these selfless heroes stayed for days, and weeks, as tons of debris continued to smolder and the air around them was filled with toxins.

As a result today, nearly 5 years after those attacks, I have personally met with many individuals whose health continues to deteriorate. While I called for, and welcome, the efforts of Dr. John Howard, director of NIOSH, in his capacity as the Federal coordinator for 9/11 issues to deal with the long-term issues in New York, the Federal Government has no plan to deal with this long-term health crisis.

In fact, the Daily News in New York published a story on these individuals and about the health impact it is having upon individuals who can no longer perform their duty as firefighters and police officers because of diseases that have materialized, decrease breathing capacity, and other ailments that have emerged since 9/11.

I ask unanimous consent that these stories be made a part of the record.

Mr. Chairman I don't think we know whether Hurricane Katrina will have the same long-term health impact but one thing is clear: we must determine what long-term medical and mental health needs should be tracked, monitored, and treated after significant natural or man-made disasters.

I hope this panel will address this issue or that this committee will look into this important issue because it is something that I have been dealing with, along with my colleagues in the New York delegation and Senator Voinovich, ever since 9/11 and with which we will need to deal with in the coming years.

Mr. Chairman, there is another matter I would like to raise.

We saw the catastrophic damage caused by Hurricane Katrina and the subsequent failed response by the Federal Government.

I am sure we will get into those issues.

But there is also a question about the types of assistance we should be providing to individuals and small businesses.

Mr. Chairman, we just experienced significant floods in Upstate New York as a result of the massive rain storms just a few weeks ago.

In Queens we are experiencing a massive blackout impacting thousands of individuals and over 700 businesses.

As I traveled across these impacted areas, or speak with individuals, business owners, and local elected officials, there is a concern about the type and level of assistance that the Federal Government is able to provide.

After 9/11 and Hurricane Katrina, along with a few other big disasters in our Nation's history, we passed individual pieces of legislation to address things like business and crop losses which are normally dealt with by low-interest loans through the Small Business Administration.

Many of my constituents who own small businesses cannot afford to take on any more loans especially after they have just lost their homes and all of their possessions.

So I hope we will look at the types of Federal assistance available to small businesses, individuals, local governments, and other entities.

The Stafford Act is an important tool to deal with disasters in this country and we have moved from an ad hoc approach to disaster response to a coordinated approach.

The Stafford Act as it exists today became law in 1974 after consideration by this committee—the Senate Environment and Public Works Committee with FEMA being created by Executive order in 1979.

So Mr. Chairman I commend you for continuing stewardship over the Stafford Act which authorizes the President to act.

We know that the President has delegated his responsibilities to FEMA and DHS and others could also be directly impacted and we should look at that in the aftermath of Hurricane Katrina and 9/11.

This committee last amended the Stafford Act to provide for the Disaster Mitigation Act of 2000, P.L. 106–390, and we must make sure current mitigation programs reflect the threats we face from severe hurricanes and potential terrorist attacks.

Perhaps it is time we look at some grant assistance for those communities that are not as economically strong as other communities and who will have a much harder time recovering from such widespread disasters.

Finally Mr. Chairman, I hope we will address the lessons-learned from Hurricane Katrina.

I have a stack of reports here, Mr. Chairman, that have been conducted by the House, the Senate, the GAO, the White House.

After Hurricane Katrina struck I advocated for a single, independent Commission modeled after the 9/11 Commission—to conduct an investigation into what went wrong and to provide a unified set of recommendations to us about what needs to be fixed.

Unfortunately, we now have disparate reports and I am afraid we are poised to repeat some of the mistakes of the past.

I hope we will address FEMA's existing authorities to pre-position assets and for the President to make major disaster declarations even without a written request from a Governor because I believe such pre-planning and pre-positioning could help mitigate some of these large scale disasters.

If the Stafford Act authorities need to be changed, clarified, expanded, or contracted I hope we will have the courage to make those changes.

I look forward to working with all of my colleagues on this committee and to hear from this panel as we move forward.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Clinton. I will also tell you that in my opening statement I talked about the great experience, the successful experience we had after the Murrah Federal Office Building. That was James Lee Witt at that time, what a great job he did and how coordinated things were.

Senator Jeffords, you are recognized for your questions at this time.

Senator JEFFORDS. Ms. Dietrich, how is EPA ensuring that public health and the environment are not compromised in an effort to speed up decisionmaking related to asbestos handling and landfill permitting, and how is EPA communicating any potential health risk to local affected communities?

Ms. DIETRICH. Well, Senator, we have worked extensively with the States on this issue, on asbestos-containing material, as well as FEMA and the Corps of Engineers. We have provided technical advice and assistance to the States and other Federal agencies. We have assisted in conducting training on how to handle the material. In addition, both Mississippi and Louisiana established policies or protocols of how they will handle this material. Again, it is a program delegated to the States, so they do have responsibility for handling this, but we have reviewed those protocols, commented on them, and feel that the State is doing an adequate job on handling those materials.

In terms of communicating to the public, we have done an extensive outreach in communication via our Web site. We have done a tremendous amount of sampling down in New Orleans. Those results have been posted on the Web site. We did public announcements via radio and we handed out millions of flyers providing information to the public, as well as cautions that they should take in dealing with whatever situation that they may come in contact with.

Senator JEFFORDS. Mr. Shea, I note that in your testimony you state that FEMA encourages reauthorization of the Disaster Miti-

gation Act. Do you favor reauthorization as it is, or do you have recommended changes?

Mr. SHEA. Senator, based on our experience with that portion of the Act, I would tell you that we feel very confident that the authorities are strong enough to do what we need to do. Obviously, there are limitations based on funding, et cetera, that gate the ability to influence the built environment, but we feel very strongly that the Act itself is very good.

Senator JEFFORDS. Mr. Shea and Mr. Gruber, Title VI of the Stafford Act authorizes a comprehensive emergency preparedness system for all hazards to be established jointly by the Federal Government, States, and their political subdivisions. Who is currently administering Title VI of the Stafford Act and what actions have you taken since September 11th to improve the preparedness of our Nation for both natural disasters and catastrophes?

Mr. SHEA. That will be the Preparedness Directorate of the Department of Homeland Security. I think Mr. Gruber would probably be best to answer that question.

Mr. GRUBER. Sir, as I said in my opening remarks, this is clearly a shared national responsibility, but let me just highlight a few things that I think are important to this. First of all, the Secretary acknowledged this in the Second Stage Review. He mentioned, in particular, that preparedness for catastrophic planning was an extremely important priority of the Department. We have organized a Preparedness Directorate, dedicated, undivided attention to a sustaining preparedness programs activities and services. We have a series of presidential directives, of course, guidance from Congress, that describe how to implement improved incident management.

The directive I mentioned, that is titled "National Preparedness," identified 16 major initiatives. Some of those include establishment of a national exercise program, which we have done; others tell us to establish a national preparedness system. We have been working very hard, we have been working with over 100 national associations and 1,200 representatives from across the country to help us build a robust National Preparedness system that supports our National Emergency Response system.

So there is a tremendous amount of activity fully engaged across the whole community that comprises homeland security.

Senator JEFFORDS. Thank you.

General Riley, will you elaborate on the quality control mechanisms that the Army Corps has in place to ensure that debris is properly separated prior to disposal in approved landfills?

General RILEY. Yes, Senator, if I could. We have the mission from FEMA for much of it, about half of it in Mississippi, a little bit more than half of the debris in Louisiana. Of course, those are, as EPA testified to, certified and permitted by the State, the landfills. At the curbside, though, is where we begin our very initial segregation of the different types of debris, and then we continue that on in through the landfill and we inspect it at the landfill.

We do have EPA monitors, as well as FEMA monitors, along with our own auditors that inspect that work. We make on-the-spot corrections for any contractors that might haul anything else. If there is something wrong, that the contractor is doing wrong, they

just aren't paid. But we have a great deal of monitors, and we got monitors also from around the Federal Government, Bureau of Reclamation, even Department of State. We asked Department of Defense, they offered up personnel from the Air Force to increase our ability to monitor, as well as contract quality assurance.

In addition to that, we asked for our own criminal investigation command to bring people on, and we have found some work that was improper. There were indictments; there are some people in jail for doing that work.

So it is very, very closely monitored, and I think we are confident we have all the waste streams distributed properly and also recycled where most appropriate. So there is a great deal of recycling going on as well.

Senator JEFFORDS. Thank you.

Senator INHOFE. Thank you, Senator Jeffords.

I will say to Senator Obama and Senator Clinton, we will only have one round of questions, so if you need to go over a couple minutes, that is fine.

Senator Obama.

Senator OBAMA. Thank you very much, Mr. Chairman. I will be relatively brief.

Mr. Shea, based on what I saw in New Orleans, we are having some problems getting people back into their homes. I have heard repeated complaints that FEMA's ability to address housing needs after a disaster of this magnitude is inadequate. So I wanted to specifically ask you what changes you thought could be made to the Stafford Act in order for the Federal Government to do a better job restoring people in their homes, making sure that we are minimizing delays wherever possible.

If you could also address specifically some concerns that I have heard about the difficulty in getting even temporary housing in apartment buildings, and relying on trailers instead because there were some constraints in terms of how money could be spent by FEMA. So if you could just address some of those questions.

Mr. SHEA. Thank you, Senator. Well, in general, I think it would be fair to say that FEMA's traditional methods of providing temporary housing have not worked well in the aftermath of Katrina. I don't think there is any mystery about that. Historically, what we have done is used mobile homes or travel trailers as a mechanism to put people back close to their property so they can be involved in the rebuilding process, and largely that has gone on down in the New Orleans area.

But because of the fact that so many people were pulled out of that area during the evacuation processes, re-establishing that community in general has been very challenging, and I think it will continue to be challenging for a while yet to come. We are very concerned about it. We are working very hard right now to make sure that we do meet the needs of every individual. We are in touch with them basically on a regular basis to gage their situation and provide whatever relief we can to them.

We are looking at ways, within the framework of the existing law, actually, of trying to provide expedited assistance. Amongst other things, we are increasing our capacity to do intake registration. We now have plans in place to go to the shelters and actually

do the intake and registration of individuals directly in the shelters. We have mobile vans that we are now fielding to be able to put into place to get to populations when they are cut off from other mechanisms to be able to do it.

So I think we are largely working within the framework of the law to address this.

The other thing I would say, as Senator Clinton indicated, there are a variety of reports that we are still in the process of looking at, and they include the White House, the Senate has helped us with some guidance, the House has, the Inspector General of DHS, the Government Accountability Office. So we are still going through all of that and have not come up with any final recommendations that might include changes to the Stafford Act.

Senator OBAMA. Any sense of how long that review is going to take and when you will actually have——

Mr. SHEA. Well, we are working very hard on it and I suspect by late summer, early fall we should have some indication of where we are going with all of that. It is not as if we are just sitting there and——

Senator OBAMA. No, I understand you are trying to respond where you can, but it would be useful to us to have that review, obviously, if there are going to be legislative changes that are coming out of it.

I have only a brief time remaining. Let me shift gears real quick. One of the things that I was deeply concerned about was a disjointed mechanism for reconnecting families after a disaster, and obviously that would apply not just in a situation like Katrina. You can imagine the panic if there was a terrorist attack in a city.

As far as I can tell, federally sponsored entities like the National Center for Missing and Exploited Children, the National Center for Missing Adults, the Red Cross, and the Louisiana Family Assistance Center, they all worked on this effort, but there wasn't much coordination and support from FEMA.

Under Secretary Paulson, based on a conversation I had with him, FEMA plans to rely on the Red Cross, primarily, to undertake this task, and I am not entirely clear or comfortable as to why FEMA doesn't have a more central role in this. Is it going to be engaging the Department of Justice, which has jurisdiction over the Center for Missing Adults and Missing and Exploited Children? Is it going to be dealing with the Department of Health and Human Services, which provides primary support for the Louisiana Family Assistance Center, the Red Cross?

How can we coordinate this in a more effective way? I have some legislation that is currently being considered. It just strikes me, with modern technology, we should be able to come up with a better solution than what we have seen so far.

Mr. SHEA. As you indicated, Senator, that is one of the areas that we have been in deep discussion with the American Red Cross on. They have, on their own, I think, undertaken an upgrade of their automated data processing systems. Part of the mechanism by which FEMA operates is we are a relatively small Agency, and, as such, there are a variety of different issues out there. Our main mechanism for dealing with it is to look towards areas of expertise. As was indicated by this panel today, when we are confronted with

debris removal, we turn to the Corps and to the Environmental Protection Agency. So we feel pretty strongly and we spent a lot of time with the American Red Cross to have them do this.

That is not to say that we won't explore other mechanisms. We recently embraced an organization called Save the Children to be able to help us with some of our mobile home parks down there in the Louisiana area and other areas of the country. So we are looking at mechanisms by which we can partner both with the public sector and the private sector to be able to address issues of the kind that you have outlined.

Senator OBAMA. OK.

Mr. Chairman, I know my time is up, but what I would like to do is to, if I may, submit some questions for the record.

Senator INHOFE. That would be fine. I might suggest on the second panel we do have an American Red Cross witness.

Senator OBAMA. Unfortunately, I can't stay.

Senator INHOFE. I see.

Senator OBAMA. But I would like to.

Senator INHOFE. Very good.

Senator Clinton.

Senator CLINTON. Thank you, Mr. Chairman.

I think you can tell from both our statements and our questions that we have a lot of concerns. I would sort of list a number of those for me: long-term health monitoring and treatment; the types of assistance that are available, low interest loans versus grants, which in some situations I think may be called for; large-scale long-term housing after disasters; registering numbers of individuals for assistance for reconciling families, for doing that as well as to try to get a better system to avoid the waste that we have now been hearing about, just billions of dollars wasted, trailers rotting in a field near the Hope Airport in Southwest Arkansas; debris removal, which has been referenced; and no-bid contracts. Those are all areas of deep concern to me.

I would ask, Mr. Chairman, for the opportunity to submit additional questions in writing to try to elicit further information from these agencies.

Senator INHOFE. Sure. Without objection. I might also add that several other Members who are not here will be submitting questions for the record.

Senator CLINTON. Thank you.

Let me ask you, Mr. Shea, what FEMA's attitude is toward creating some kind of long-term recovery entity, either within FEMA—but given the constraints you face, I understand why that might be difficult—or at least coordinated by FEMA so that localities and States that are overwhelmed, as we have seen with 9/11 and then with Katrina, could immediately set up some kind of medical mental health tracking and treatment protocol?

Senator Voinovich and I have introduced the Disaster Area Health and Environmental Monitoring Act, which would amend the Stafford Act to allow the President to set up monitoring programs in order to protect and track the health of first responders and residents, with a priority on tracking first responders with high degrees of exposure to known toxic substances. Do you believe that

this is an additional both responsibility and opportunity for our disaster response mechanism?

Mr. SHEA. Senator, I guess my comment would kind of read as follows on that. I know that under your leadership that we began looking very hard at some issues surrounding the implications of 9/11, and I think, frankly, part of the experience, we have been involved in that now for well over a year and it has been a beneficial experience, no question about it. One of the things that is a little unnerving is that there is no conclusions to it, so we are still struggling with that. But we do believe that the health and safety aspects of the Stafford Act are fairly significant and are ready to address, should we know what the issues are to be addressed. So that is one of the constraints on us at this moment, I think.

Senator CLINTON. Well, that is an area that I would like to work with you on further. I appreciate the fact that we did get Mr. Howard appointed to do the work that he is now doing, and I think that is going to be also very informational.

I wanted to ask General Riley, you know, debris cleanup has been identified as a real holdup. I talked with Mayor Nagin from New Orleans on Monday and asked him how the lower 9th Ward was going, because I was there in December. He said not much has happened. There are other places within Louisiana and Mississippi where you get the same response. I am very concerned about this and wonder, General, if you think we need to make some changes in the Stafford Act or the National Response Plan Agency activities in order to do a better job of getting on the stick with this and getting it done more efficiently.

General RILEY. Yes, Senator, there is clearly, at 9th Ward, a challenge, and mainly the challenge has been—well, very quickly, the Corps was able, under FEMA's mission assignment, to move and clear the rights-of-way, and that happened fairly quickly. What the challenge was then is the slow return of residents. As residents return, they will put more debris out in the right-of-way, so we will go clean that up fairly quickly.

The real challenge in the 9th Ward and other areas that were heavily damaged was obtaining the right of entry signed by the resident and the bank and the mortgage company and through the State, FEMA, and the community, before it got to us. So the only thing that the Stafford Act can do, I would think, would be take away personal rights of their property. So I would hate to see that. It is a very deliberate procedure, but its all in the interest of protecting personal property rights. We just don't go on their property.

Now, if there is a tree that is about to damage public property, we can go onto private property and take care of that. But in any other instance we defer to their personal property rights and get a signed right of entry before we enter on that private property to demolish a structure, for instance.

Senator CLINTON. Well, General, you know, I think that sounds real good, but what I have heard, both from New Orleans and from some of the surrounding parishes, is that there were a lot of contracts that were given to independent debris removal companies, and they haven't done the job either. So, I mean, it is like you are not doing the job because you can't get permission, but everybody I talk to says they have been waiting desperately now for months

to get somebody to come remove their debris. So, I mean, I think we are kind of in a circular position here, and it doesn't add up to me.

As part of our review, I think it would be appropriate, Mr. Chairman, to ask the Army Corps and FEMA for a breakdown of the debris removal contracts let during Hurricane Katrina, you know, who got them, what the dollar amounts were, who the prime contractors subcontracted out of, because what I have been hearing from people is that the money has just been dissipated; it went to some, you know, prime contractor who subcontracted to somebody else, who subcontracted to his brother-in-law, who contracted to, you know, his uncle, and by the time it got down to the person who was supposed to go haul the debris away, there was hardly any money left.

So I think we need to look into this, because it may be that we want to recommend, you know, pre-positioning material and having contracts already on the ready and having qualified people who can perform this function at a cost-effective rate that saves the taxpayers dollars. So I am certainly far from satisfied that this is an area that we have done a particularly good job in. In fact, I think we have failed miserably in many instances, and I think we can do better. So I think, Mr. Chairman, this is one place we need to emphasize.

Senator INHOFE. You know, Senator Clinton, what you might do at this point is go ahead and direct that question to one of the witnesses for the record with a response, and find out. I think it is a good idea.

Senator CLINTON. Well, I would like to ask both General Riley and Mr. Shea to provide us with information about the contracts that were let with respect to debris removal after Katrina. Will you do that, General?

General RILEY. Yes, Senator, sure will.

Senator CLINTON. Thank you.

Mr. Shea?

Mr. SHEA. We will.

Senator CLINTON. Thank you, sir.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Clinton.

Let me just, for the record also, I will probably direct it at you, Ms. Dietrich, I had said in my opening statement that it has been called to my attention there are existing landfills that have not been fully utilized and others are being built, and I would like to specifically have you respond for the record—the Satellite D landfill and the River Birch landfill, one of which is lined, I think the River Birch, and the other is not—as to if they are going to be used or have they been used, or if not, why not? If you could do that for the record, unless you have the information now.

Ms. DIETRICH. I don't have that information with me today, but I will be happy to provide that for the record.

Senator INHOFE. That is good.

OK, I think Senator Jeffords had one more question that he wanted to ask.

Senator JEFFORDS. Yes.

Ms. Dietrich, I note that in your testimony you say that EPA debris activities are winding down. I understand that there are between 15,000 and 22,000 homes still to be demolished. How can EPA's job be done?

Ms. DIETRICH. Well, our job primarily has been to collect household hazardous waste. I think primarily the demolition mission will be handled by the Corps and the States. So while we are winding down with regard to the amount of household hazardous waste, we certainly will stay abreast of the situation. To the degree that we are given a mission assignment to extend on demolition, we will do so.

Senator INHOFE. All right, we are prepared to dismiss this panel unless there is a further question.

[No response.]

Senator INHOFE. All right, you are dismissed, and we appreciate very much your participation today.

We would call up the next panel, which is Armond Mascelli, who is the vice president of Domestic Response for the American Red Cross; Pamela Pogue, the chair of the Association of State Flood Managers, the State Floodplain Management, the State of Rhode Island; and Tamara Little, who is the chair of the Legal Council Committee, National Emergency Management Response Association.

We welcome you to this panel. We will start with the opening statements from the panel in the order that I introduced you, which will start with you, Mr. Mascelli. I would like to ask that you try to confine your opening statement to 5 minutes, and your entire statement will be made a part of the record.

Mr. Mascelli.

STATEMENT OF ARMOND MASCELLI, VICE PRESIDENT OF DOMESTIC RESPONSE, AMERICAN RED CROSS

Mr. MASCELLI. Thank you, Mr. Chairman.

My name is Armond Mascelli, and I am the vice president of Domestic Response for the American Red Cross. Thank you for inviting me to testify before you today on the Stafford Act. I will keep my oral remarks very brief.

This is an important hearing. Disasters have evolved and changed in our country and so, too, as a result, must public policy that supports our collective response and mitigation. I want to address the issue areas requested by the committee by providing some quick recommendations. First, we suggest that it is essential that there is a crosswalk between the Stafford Act and the National Response Plan. While the Stafford Act has proven to be a fair apparatus for Federal response to recurring disasters, we believe it is important to make sure that the Stafford Act matches this new Federal Response Plan, particularly in the plan's areas of catastrophic disasters.

Second, in passage of the Disaster Mitigation Act of 2000 under the Stafford Act, the Congress listed six intentions or six purposes in that Act, to include revising, broadening the scope of the existing disaster relief programs; encouraging the development of comprehensive disaster preparedness plans and activities in State and local government; achieve greater coordination, responsiveness be-

tween the Preparedness and Relief Programs; encourage individuals and States and local governments to protect themselves by obtaining insurance coverage to supplement or to replace government assistance; to encourage hazard mitigation measures to reduce losses; and then, finally, to provide Federal assistance programs for both public and private losses sustained by disasters.

I would suggest that all these intentions of Congress are still valid today. While these six intentions have gotten some traction since passage, we believe that they have not been fully realized.

To better realize these disaster outcomes, we believe that the Stafford Act and other acts by Congress should tie mitigation funding and programs to goals and concrete measures. Mitigation is important. We believe that the government sector can play a more effective role in ensuring mitigation practices are implemented.

Second, since the Disaster Mitigation Act of 2000, our Nation has experienced a major terrorist attack, as well as a truly catastrophic natural disaster. In light of 9/11 and Hurricane Katrina, and with the impending threat of additional terrorist attacks, the forecast that is set of future destructive disaster seasons, and pandemic influenza, we believe that the Stafford Act needs to be examined and also to consider these type of likely disasters.

We also suggest that the committee look at the effectiveness of the individual assistance programs under Stafford in relation to the needs and experience of disaster victims. This assistance can, we believe, be altered in some ways to better support and ensure that the needs of disaster victims are being met in a more effective and efficient manner.

I would encourage the committee to be mindful that, unlike perhaps other Stafford Act constituents, there is not an organized group of disaster victims with the ability to advocate their case before Congress, particularly before disasters happen.

Mr. Chairman, Members of the committee, the American Red Cross is listed in the Stafford Act. We believe this is important because it acknowledges the unique role of the American Red Cross, but also the importance that non-government organizations play in disaster preparedness and response efforts.

Again, I appreciate the opportunity to be here today, and I would be happy to answer any of your questions.

Senator INHOFE. Thank you, Mr. Mascelli.

Ms. Pogue.

STATEMENT OF PAMELA POGUE, CFM, CHAIR, ASSOCIATION OF STATE FLOOD MANAGERS, STATE FLOODPLAIN MANAGER, STATE OF RHODE ISLAND

Ms. POGUE. Good morning, Chairman Inhofe, Ranking Member Jeffords, and Senator Clinton, and other members of the committee. I am Pam Pogue, and I am the chair of the Association of State Floodplain Managers. I am also the State floodplain manager for the State of Rhode Island.

The Association and its 24 chapters represent over 9,000 State and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources,

and insurance. Many members of our Association work right now with communities who have been directly impacted by Katrina, Rita, and Wilma, and work with organizations that are assisting with these rebuilding and recovery efforts.

We appreciate the invitation to share our views with you on the improvements that need to be made to enhance the Stafford Act and to improve disaster loss reduction in our Nation.

Disaster mitigation is critically important. Mitigation, when practiced and implemented, is how we keep structures and people out of harm's way. Mitigation, when institutionalized at the State and local level, helps to keep communities survive, despite whatever damage has been wrought. Mitigation is also how we save the Federal Government huge expenditures in disaster relief. For the first time, we now have a report that quantifies the benefits of mitigation. The study was done at the congressional request of FEMA and FEMA tasked the Institute of Building Sciences to complete the research and report on the final results. We now know that for every $1 invested in mitigation, we have a $4 return. For flood mitigation it is even higher; for $1 we receive a $5 return for every investment.

We have established now that mitigation is a good investment and a very smart local practice. Now we need to examine how we can bring our mitigation programs to achieve these critical goals for the citizens in this country. I would like to offer the committee five recommendations towards this end.

No. 1, additional authority is needed for the administration of the Hazard Mitigation Grant Program and should be delegated to qualified States. With regard to FEMA and the Hazard Mitigation Grant Program, we think that it needs to be run much more efficiently and expeditiously, and can certainly be done by those States that are qualified. FEMA has not initiated action to implement section 404(c), Program Administration by States. Currently, of the States that have FEMA-approved enhanced mitigation plans, seven States—and two are pending—are poised to assume this additional responsibility and authority that Congress has already anticipated would be delegated.

Many of the communities that have very active mitigation programs are in these same States and would greatly benefit from their States' assuming this additional administrative responsibility and authority. The benefit for a State to be delegated this authority is that the duplication of efforts that currently exists between the State and the regional offices in reviewing and processing these grants could be avoided.

Therefore, processing the funding from HMGP could be expedited, the funding could be obligated and then spent in a much timelier fashion. By delegating additional HMGP authority to those States that are capable and eligible, FEMA is supporting enhancement of State capacity and decreasing the processing time, program delays, and grant costs.

The Federal Government, including FEMA, needs strong capable State and local mitigation programs if the costs and sufferings of disasters are going to be reduced.

The ASFPM would recommend that report language expressing the committee expectation that FEMA is to undertake the consulta-

tion of State and local governments, and implement delegation of authority for the administration of the Hazard Mitigation Grant Program. The Association also recommends that the committee direct FEMA to continue to improve the delivery of post-disaster programs to meet the needs and demands of States and communities, possibly within a 90-day turnaround of receiving that grant.

No. 2, communities that refuse to participate in the National Flood Insurance Program should not be eligible for public disaster assistance. There are communities with identified flood hazards that choose not to participate in the National Flood Insurance Program, thereby allowing development and public infrastructure in special flood hazard areas. As a result of not being an NFIP community, the citizens of that community are not eligible to purchase national flood insurance. Ironically, however, these same community leaders that choose not to join the NFIP can still apply for and receive disaster assistance even for buildings located in flood hazard and high risk areas.

This is poor public policy because it rewards communities that allow at-risk development and because they know FEMA and the public tax dollars will bail them out. It also penalizes those communities that do the right thing because these communities help to pay for those that do nothing.

The Association would recommend that the committee clarify that all public assistance for any damaged public buildings and infrastructure located in FEMA mapped special flood hazard areas is to be withheld from communities that have declined to participate in the National Flood Program.

No. 3, the Stafford Act authority should be expanded during catastrophic events. The Stafford Act has proven to be effective for most disasters; however, additional provisions are needed to address the challenges that arise during those events that far exceed State and local capacity that are critically important in post-disaster recovery issues. Whether catastrophic or even of a regional impact of some significance, the results of natural disasters on a community is that, to varying degrees, some routine governmental functions suffer, such as the planning, the permitting, and inspection to ensure adequate management of the rebuilding process.

Citizens may start to repair and rebuild before safety inspections are done and conducted, before building permits are issued, which put these businesses and families back into harm's way. In addition, when an event causes these impacts, disaster assistance may be required up to 12 to 24 months. FEMA, DHS, has consistently denied reimbursement of costs associated with private property damage inspections and permitting, despite congressional findings in the Stafford Act that because disasters often disrupt the normal function of governments and communities, and adversely affect individuals and families with great severity, special measures designed to assist the efforts of those affected States in expediting and rendering aid assistance and emergency services, and the reconstruction and rehabilitation should be necessary for reimbursement.

My final recommendation——

Senator INHOFE. I am counting, and I counted three.

Ms. POGUE. I know you are. I saw you and I am jumping to the last one.

Senator INHOFE. Let's try to wind up.

Ms. POGUE. Finally, the impact of FEMA's reorganization on the Stafford Act programs. Prior to be reorganized and incorporated into the Department of Homeland Security in 2003, FEMA was a lead organization. Since the mid–1990s, it had responded to both natural and man-made events in an effective manner. The ASFPM was concerned from the beginning that the inclusion of FEMA into DHS would not bode well for the progress the Nation has made in reducing our risk to natural hazards. Unfortunately, there is mounting evidence that our concerns have been realized. FEMA has gone from a small independent agency with direct access to the President to just one among many entities in a huge organization. The Nation has gone from mitigation being the cornerstone of disaster programs to having the word and concept nearly excised from the emergency management lexicon. Even though assurances were made during the legacy missions of these organizations would continue, terrorism was and is the primary focus of DHS, which ASFP agrees is appropriate for DHS. State and local emergency managers, especially those in areas prone to these recurring hazards, are lamenting the loss of the FEMA we once knew.

The following have been and continue to be specific concerns: the transfer of specifically authorized FEMA and NFIP funds to support other DHS functions; detailing FEMA staff out of the mitigation directorate; not filling vacant positions throughout FEMA, including senior leadership positions; and extensive delays in FEMA policy decisions and guidance due to the added layer of DHS bureaucracy.

I would like to thank the committee.

Senator INHOFE. Ms. Pogue, let me ask you a question. How long have you been in the position you are in right now?

Ms. POGUE. As the State floodplain manager in Rhode Island or as——

Senator INHOFE. No, in Rhode Island.

Ms. POGUE. In Rhode Island? Seven years.

Senator INHOFE. OK. So you remember what it was like before.

Ms. POGUE. Oh, I certainly do.

Senator INHOFE. That is what I wanted to get.

In fact, I have to tell my fellow members up here that we had structured this panel so that the first panel would be kind of the providers and the second the customers.

I was going to admonish you, when it was my turn to ask questions, not to be shy about your answers. I have a feeling I don't need to do that.

Ms. Little.

STATEMENT OF TAMARA S. LITTLE, CHAIR, LEGAL COUNSEL COMMITTEE, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Ms. LITTLE. Thank you. Good morning, Chairman Inhofe, Ranking Member Jeffords, and Senator Clinton. Thank you for allowing me the opportunity today to represent the views of the National Emergency Management Association, whose members are State

emergency management directors from all States, territories, and the District.

As the Nation continues to address the recommendations of the various reports reviewing the preparation for, response to, and recovery from Hurricane Katrina, careful thought must be given by Congress.

The Stafford Act is a law that the members of NEMA hold in very high regard. Major revisions of the Stafford Act are not necessary, since the law provides adequate flexibility for emergency management in our Nation. NEMA played a very active role in the drafting of Disaster Mitigation Act of 2000, and its members implement various sections of that Act and the Stafford Act every day.

NEMA does not support creating a separate or new system solely to address catastrophic disasters. Not only is the Stafford Act nimble enough to handle disasters, large or small, but Congress can and has utilized its ability to make temporary changes to the law as particular circumstances require. Any revisions to the Stafford Act must be thoughtful, deliberate ,and closely vetted through stakeholder groups with proximity to the outcomes, such as NEMA and the other members of the Stafford Act Coalition. Policy guidelines, most recently, strategies are often issued without notice, coordination, good statutory or regulatory foundation, or congressional oversight.

The Disaster Mitigation Act of 2000 was adopted to create a predisaster mitigation program and to refine current disaster programs that would result in cost savings for the Federal Government. While the legislation had a very strong mitigation focus, one example of how the Stafford Act has been sidestepped is to examine how the State of mitigation has changed over the past 6 years.

Amendments to the law that occurred during the appropriations process reduced the formula for post-disaster HMGP grant program funds from 15 percent to 7.5 percent. This reduction prevents lessons from disasters from being immediately incorporated to mitigation projects.

What was intended to be a program that helped fund every State's predisaster mitigation efforts has now become a competitive program which often favors communities with greater ability to dedicate financial resources to grant applications, including engineering and preservation reviews.

On a policy front, mitigation has been marginalized. While the Department of Homeland Security was formed and terrorism became a greater focus, mitigation activities received less focus. The life cycle of emergency management was broken when preparedness was moved from FEMA to create a new Preparedness Directorate within DHS in 2005, and mitigation rated only a mere mention in the National Response Plan.

There is some good news. Every single State and many local governments now have plans in place to pre-identify mitigation priorities prior to disasters if and when Federal assistance would be available for the execution of those projects. Additionally, some States took on the greater responsibility of obtaining approval of enhanced mitigation plans, enabling those States to be eligible for up to 20 percent of disaster costs for HMGP by acting as a managing State. Currently, as Ms. Pogue related to you, seven States,

including Ohio, have received approval of their enhanced plans. However, HMGP should be restored to 15 percent of disaster costs for all States.

As new changes are being considered to the Stafford Act, NEMA asks that the Senate pay particular attention to ensuring mitigation opportunities are increased by fully funding those programs and allowing the important changes to DMA2K to have their intended effect, that of reducing disaster costs to the Federal Government.

NEMA has also identified several other areas for immediate improvement.

The reduction to the repair cap for individual assistance was erroneously included in DMA2K and has since adversely impacted many disaster victims. NEMA would support making a change to raise the cap, which, adjusted for inflation, would be over $27,000.

In addition, State and local governments need to have the ability to utilize Federal assistance to keep State and local personnel working, especially after a catastrophic disaster. In cases of catastrophic disaster where entities have very limited income sources, this is particularly important to enable everyone to continue the important work of response and recovery.

Hurricane Katrina resulted in numerous disaster-specific changes in policy for debris removal. Historically, this is one of the most problematic areas. Six years after DMA2K, the Gulf Coast States still struggle with this issue. FEMA released, just this week, its debris removal operation strategy, and it is one example again of releasing a policy without good coordination with the actual stakeholders, State and local governments. Our current debris removal reimbursement system is outdated and provides little incentive for State and local governments to take over the management of debris removal.

While there is a choice of the U.S. Army Corps of Engineers at their prices for up to 100 percent Federal reimbursement, or they could choose to pay 25 percent of their own money if they want to take over the management of debris, again, this provides State and local governments little incentive. Thought should be given to lowering the State and local cost-share for debris removal if impacted communities are willing to take on this weighty task.

We must find common ground and develop policies that remove these obstacles and accomplish debris removal goals and objectives without compromising the integrity and accountability of the program.

On behalf of NEMA and its member State directors, I thank you for the opportunity to present this statement today.

Senator INHOFE. Thank you. Let me ask you the same question I asked Ms. Pogue. How long have you been either dealing with the States' emergency management teams or the current position you are in?

Ms. LITTLE. Mr. Chairman, I have been in my current position for almost 18 years.

Senator INHOFE. OK, that is good enough.

Let me do this. You have done a great job, I think, all three of you, when you have outlined the problems you are dealing with. What I want to approach in my questions is a comparison, because

that is why I asked if you were around before. So in terms of the States' response, recovery, preparedness mitigation functions, how have they been affected by FEMA's inclusion in DHS? I would like to get a kind of comparison of how things were before that and after that. You have addressed mostly what has happened after that.

Let's start with you, Ms. Pogue.

Ms. POGUE. I would be happy to address that. I have been in hazard mitigation and this area probably for 19 years; my prior life was as an oceanographer. But I appreciate what you are saying.

The No. 1 impact that I notice as a State program manager for flooding, earthquakes, hurricanes—and I also was a State hazard mitigation officer—prior to 9/11, we had a staff in Rhode Island of about 16 people. Of the 16 people, I would say 6 of us more or less had some authority or dealing with natural hazards. As a result of 9/11, you are looking, unfortunately, at the only person dealing with natural hazards for the State of Rhode Island. But we do have 22 contractors that are dealing with terrorism in Rhode Island.

So the one thing that the direct impact—and I know that my State is not alone—is that there has been a tremendous resource drain in dealing with natural hazards, but there has been a phenomenal shift in responsibility and importance away from natural hazards and toward terrorism.

Senator INHOFE. All right.

Ms. Little.

Ms. LITTLE. Mr. Chairman, I think one of the other things is that DMA2K authorized the enhanced plan program, the managing State role, which many States embraced immediately. Since many States and local governments currently have these plans in place, they are ready to move in this role and to hopefully allow mitigation programs to occur faster so that more projects can be completed with money that is available.

Senator INHOFE. But is it fair to say that the mitigation has been less featured since FEMA became a part of DHS?

Ms. LITTLE. Mr. Chairman, I would say that is certainly true.

Senator INHOFE. What do you think?

Ms. POGUE. I couldn't echo that sentiment strong enough. Absolutely true.

Senator INHOFE. OK, what thoughts do you have, Mr. Mascelli?

Mr. MASCELLI. I have a little bit of a different perspective in the sense that the scope, risk of disasters are increasing at a significant rate. Look at the demographics of our country, look at where people are settling and living, et cetera. So certain things like mitigation become really important, become more important than perhaps were given attention a few years ago. If they are not addressed in an effective way, the same as we look at response, we look at planning, we look at some of the other components of emergency management, then we will never get to the point where effort is matching what the results we are looking for.

So how the Government structures and what it does is up for the Government to decide, but the reality is the end result. Disasters are more expensive. We are having large disasters. We have a significant pattern of hurricanes coming up, meteorologists tell us, over the next several years. So is all that activity, regardless of

how we structure it, actually going to give us the benefit that we are looking for? There is a shortfall there.

Senator INHOFE. You heard me say in my opening statement that FEMA had set their goals to reducing risk of loss of lives by 10 percent and property by 15 percent by 2007. What is your feeling about whether they are going to be able to meet this goal? If not, what changes should be made to help them do that?

Mr. MASCELLI. A couple things. I would suggest that probably the most effective mitigation activity we have had in the country is in the State of Florida, for a number of reasons, but one of the reasons for that is that it engaged more people, the private sector, for example. Clearly, the State of Florida took some actions after Andrew, for example. Insurance companies deciding raising rates or leaving the State, et cetera. So it ended up taking a lot of constructive action. Statewide building codes, for example, and a number of other things that I think we saw the benefit of that in the four hurricanes that they had back a couple years ago.

So I think that while the Government should engage—it needs to be local, State, Federal Government—it also needs to engage other sectors of the economy or other sectors of the country. Then also, too, individuals are really important. If the message is not down to the individual citizen and the individual taxpayer in terms of things that they should be doing or not doing that is going to have an impact on future disasters, then I don't think they are meeting the full equation.

Senator INHOFE. Any other comments?

Ms. POGUE. Yes. I think one of the biggest hits as a State person, now wearing my State emergency manager hat, has been on our regional offices. FEMA has 10 regional offices, and I think their workload has probably increased exponentially, and we have a tremendous reliance on them, and yet they are strung all over the place; they are pulled apart in 15 different directions. You know, my hat is off to them, you know, but they are just not there in many, many ways, even though they absolutely want to be there. I know prior to 9/11 they were one of our greatest resources in terms of dealing with and addressing and implementing hazard mitigation. So I would say even at the regional level it has taken a tremendous hit on those folks as well.

Senator INHOFE. All right. Any comments on that?

[No response.]

Senator INHOFE. All right, Senator Jeffords.

Senator JEFFORDS. I would like each of the witnesses on this panel to respond to this question: What changes should be made in the Stafford Act to ensure the Federal Government has the appropriate authorities to respond to all types of events, including biological agents, weapons of mass destruction, or epidemics in a coordinated, planned manner, given the definitions of emergency and major disaster in the Act?

Mr. MASCELLI. I know that, for example, the definition of disaster by Stafford doesn't include pandemic, for example. I know that when we had 9/11, in terms of applying Stafford, looking at the explosion word and covering the 9/11. But it seems that, as I said in my statements, the scope of the disasters and the types of disasters we are facing as a country is changing. If Stafford is

going to be the principal mechanism by which the Federal Government is going to respond, fund, et cetera, then it needs to be as inclusive as possible, looking at things like pandemic, the bioterrorism, and other types of activities.

Ms. POGUE. I have to say, taking that to our statewide level, we too—keep in mind that the local emergency managers in all of our cities and towns throughout the country are tasked with—they usually have themselves and nobody else in terms of staff—writing a bird flu plan, a pandemic flu plan, an emergency operation plan, a local hazard mitigation plan, an evacuation plan. One person.

So I would have to say one of the things at the State level, because I tend to be the bad guy, you know, wanting these plans, is to try to separate, sort of separate and conquer or divide and conquer. What we do at the State level, for example, with the bird flu plan and the pandemic flu plan, is work with the Department of Health. So we sort of sort it out and we just sort of coordinate, rather than throwing this at everybody, and you don't lose the actual value of the mission.

So I think in some way, instead of throwing everything at one particular Agency and having them try to deal with all this, which, you know, they are pulled apart in so many different directions, you sort of need to basically organize—organize, coordinate, and collaborate—otherwise it is never going to get done. The resources just aren't there.

Ms. LITTLE. Senator Jeffords, I think the members of the State emergency managers believe that the definitions in the Stafford Act work fine now. They can be expanded. They are scalable, they are flexible, as was proven both after 9/11 and after Hurricanes Katrina and Rita.

Senator JEFFORDS. Thank you.

For Mr. Mascelli and Ms. Little, what are your recommendations with regard to the potential creation of a third category of declaration under the Stafford Act that would be reserved for catastrophic events for which special rules would apply?

Mr. MASCELLI. To go back a bit, I think one of the best things that the National Response Plan, when it was created, did was actually look at catastrophic disasters. I, myself, have been doing this for a fairly long time, and I know that as soon as you talked about catastrophic, it was always put on the shelf because it was too hard to handle, and the National Response Plan took that head-on.

I think one of the things it showed us, and I think also what we saw, quite frankly, in Katrina and Louisiana, as catastrophic events are significant events that are different by scope, magnitude, touch, feel, a whole variety of other characteristics, than they are than the flood, hurricanes that we normally experience—and also what we are grappling with now in terms of all the after-action reports that are being done, all the issues and problems that came up with Katrina, looking at some of the issues we talked about this morning: recovery, housing, looking at re-establishing the economy, et cetera—that normally you don't have when you are dealing with disasters.

So clearly, if we are still at this point, where we are not comfortable in terms of where we are with recovery, et cetera, for

Katrina, then clearly it indicates that something needs to be looked at in a different way and perhaps approached in a different way.

I think also, too, again, looking at the specifics, evacuation, and looking at some of the other issues that came up where it did not work well, or there were problems there that were addressed what is the normal way that we do things, then clearly we need to look at it from a different perspective.

So that is a long way around the block, but my way of thinking that you need to look at catastrophic events as different events than routine disasters.

Senator JEFFORDS. Thank you very much.

Senator INHOFE. Thank you, Senator Jeffords.

Senator Clinton.

Senator CLINTON. Thank you. I certainly agree with that, catastrophic events are, by definition, different, and we need a plan to deal with that.

I wanted to ask all three of you, you know, during the 1990s, we had close coordination with State and local governments through Project Impact. Now we have the Disaster Mitigation Act which, based on your testimony, we are not really yet fully understanding, implementing, making sense of. Let me ask each of you, starting with you, Ms. Little, do we need to restore Project Impact as a model for how to coordinate better at the State, local, and Federal levels?

Ms. LITTLE. Senator Clinton, I am not sure that it matters that it is exactly Project Impact, but certainly both pre- and post-disaster mitigation are very important to reducing ultimate government costs for disasters. If States can be allowed this enhanced role of managing, then there will be close coordination not only with State and local governments, but also with the private sector, which is very important.

As long as the private sector and the citizens are also invested in mitigation opportunities, at the funding that they have to put in and with the funding that the Federal Government has to put in, then it can be a complimentary and coordinated effort in that regard. So I am not sure that it matters that you call it Project Impact, but both post-disaster and pre-disaster mitigation are vitally important.

Senator CLINTON. Do each of you agree with that, Ms. Pogue and Mr. Mascelli?

Ms. POGUE. I think the greatest value of Project Impact—I was a State coordinator for Project Impact and Rhode Island won Most Outstanding State one year—was the link with the private sector and the business community. It is all about disaster-resilient communities, and a community is not going to be disaster-resilient or sustainable unless you look at the economic impact on that community.

The greatest value to Project Impact—and I can speak on behalf of the State of Hawaii and the State of Rhode Island—is that we had a direct connection with our State Economic Development Commission, our realtors, our chambers of commerce, and our local private business people. That, more than anything else, I think, and a lot of fantastic things came out of Project Impact, but that, to me, is what is missing now, is a direct connect with the business

community, and they took on the responsibility of dealing with what happens when and what happens if, and preparing for that.

Senator CLINTON. Well, I would just underscore that.

You agree with that too, Mr. Mascelli?

Mr. MASCELLI. I agree in the sense that whatever we call it or whatever it is——

Senator CLINTON. It doesn't matter what we call it, right?

Mr. MASCELLI. It doesn't matter. I think it is the right attention given where mitigation is actually producing the results we needed to produce.

Senator CLINTON. Well, I have been visiting with lots of businesses, obviously, in the last 5 years, since 9/11, and it is surprising to me how desperate they are to get good information. You know, big shopping center owners, other large business interests, some of the companies that run recreational facilities, entertainment venues, they don't know where to go anymore, and they have been knocking on a lot of doors and, frankly, the doors aren't opening up for them. So I think this is an area of great importance going forward.

Ms. Pogue, I wanted to ask you, you know, we have now had 18 months of severe flooding in upstate New York. We have had two 100-year floods and one 300-year flood, and it has been devastating, because most of the communities up there, along the Susquehanna, along the Delaware, you know, the Mohawk, they are small rural communities, beautiful communities. Some of those areas had 30-year-old flood maps. They didn't have any idea of how best to protect themselves, and the first flood came and they scrambled for help and, frankly, didn't get a lot of help from the Federal Government. Second flood came and they haven't even recovered, and now we have had this horrible third, 300-year flood.

So what else can we do to try to provide communities with updated and accurate floodplain maps and data, and then coordinate them so they are better prepared facing these disasters. Ms. Pogue?

Ms. POGUE. I think primarily what you are addressing or what you are asking is great, because in Rhode Island we are having the same situation. It is about risk communication. As you probably know, the FEMA Mapping and Modernization Program, which has been underway for about 3 years or so, will be updating all of the flood insurance rate maps throughout the country. New York, as a matter of fact, has one of the more aggressive, proactive programs, which has been tremendous.

So I think that—and the concerns you are addressing I completely empathize with because Rhode Island brags about the fact our flood maps are probably some of the oldest in the country. So I can completely understand what you are saying, and we too are going to be updating all of our flood maps.

I think in addition to updating those flood maps, so people will be better aware of where the risks more accurately are, is getting into public education and outreach. Our Governor has basically undertaken an initiative to get the word out, because people do not understand flood insurance. They do not understand how to protect themselves. There is incredible misinformation out there.

So we are actively, actively working with FEMA which, by the way, has a tremendous program called Flood Smart that gets the

word out. It helps business owners as well as people who rent—who, by the way, don't know they can buy flood insurance—as well as people who own homes how they can buy flood insurance, where they can buy it, and what the coverage does entail. So I think they need to understand the risk, which, with the flood mapping program is going to happen, and then they need to understand what they can do about addressing that risk.

Senator CLINTON. Can I ask just one more question, Mr. Chairman?

Senator INHOFE. Sure.

Senator CLINTON. I am concerned about planning and coordination for mass evacuations. We have seen the National Hurricane Center predicting severe hurricanes for this year and for the foreseeable future not only in the Gulf, but along the East Coast, and there is a particular concern about New York City and Long Island. In fact, the National Geographic, when they did their special on Katrina, at the very back of the magazine there was a chart about where the next disastrous catastrophic flooding could come from hurricanes, and New York City and Long Island were at the top of the list.

Given our experience in Katrina and all of the confusion, given the fact that I just read that the State is still arguing with DHS about who is responsible for what in terms of evacuation, you know, who has to do the planning—I mean, this is really troubling to me—could each of you comment briefly about how we could better coordinate and expedite the planning for mass evacuations and what role the Federal Government, through DHS and FEMA, could play in trying to help get us organized to do this? Do you have any comments on that, Mr. Mascelli?

Mr. MASCELLI. Yes, ma'am. It is a very significant issue, and I think that right now, the way that we have it structured is evacuation tends to be a local issue, local county, local municipality, then goes to the State. The Federal Government, per se, has not been involved in, to a great degree, evacuation planning.

But I think the reality is, again, looking at our demographics, look at where we have people now living. We are becoming more urbanized across the country and living in coastal areas, et cetera, that the evacuations that we saw last year, the Houston area, New Orleans, et cetera, are our future, and clearly those evacuation activities far exceed the local municipal capacity, county capacity, in most cases State capacity.

So it would seem that evacuations, particularly these big operations, are really a national issue, therefore should involve the National Government, Federal Government in terms of how we get at these things. Big issue. I think we are going to be dealing with it for a while.

Senator CLINTON. Ms. Pogue?

Ms. POGUE. I just completed the Statewide Hurricane Evacuation Routing System for Rhode Island, and I will tell you what came out of that. We had 210 meetings with our communities. We worked with the Federal Government, meaning the National Weather Service, and the Army Corps. We took their coastal inundation and flood maps and storm surge maps.

The result is we have, for the first time, a digital geo-referenced evacuation routing system for the entire State. What it meant was not just meeting with the individual communities, but also meeting with them in regions and getting them to coordinate amongst one another. So we literally have, from top to bottom, all 39 miles——

[Laughter.]

Ms. POGUE [continuing]. We have a coordinated approach to what is going to happen and where they are going to evacuate. So it can deal with a mass evacuation or just one particular community within Rhode Island. As a result of that, the folks have bought into it, they know where they are supposed to go, because we have a heavy tourism season in August and September, as well. But that took meeting with communities.

I have to be honest with you. In terms of the Federal Government, you know, as a State emergency manager, I think it is on us. I worked with the DOT very, very closely and with our cities and towns, so they now know that it is their responsibility. They know where we have to be. We have preposition points that are going to be traffic choke points. We had a detail with, quite frankly, Federal highway money, so that was the Federal initiative there. They just did an analysis of what we came up with, and we basically were 100 percent right on.

So I think, like debris management, it is preplanning. You need to plan now in order to be able to deal with it then.

Senator CLINTON. Ms. Little.

Ms. LITTLE. Senator Clinton, likewise, in Ohio, we were one of the States that accepted evacuees and were prepared to accept evacuees from the Gulf Coast States during Katrina. We found that our partnership with our volunteer agencies and many other private businesses in Ohio was far more than we knew.

I think just the fact of having gone through that once and now learning together, we coordinated very closely with the FEMA regional office in Chicago, and with our volunteer organizations, and several private businesses that stepped up very quickly, and I think as we plan together we have got to coordinate it not only with State and local government, but with private business and our very fine volunteer partners.

Senator CLINTON. Thank you so much.

Thank you for this panel, Mr. Chairman. I guess I would just conclude by saying, to me, it is—you know, it is going to happen at the site. You know, people have to take responsibility for themselves, but I think we have learned that the Federal Government has to drive this process. When it doesn't, when it gets distracted or diverted or whatever happens, you know, a lot of places are left on their own without the expertise, without the experience. Frankly, that then comes back to cost us all money, and we have loss of life and loss of property that we could have avoided.

So I think that, again, there are some things we can do, and clearly the Chairman and I think we can do it better than we are doing it, and we are going to keep pushing to try to make that happen.

But I thank each of you for your years and years of experience. It is a wonderful panel to hear from. Thank you.

Senator INHOFE. Thank you, Senator Clinton.

It is the policy of the committee to leave the record open for a week. We have several Senators, including Senator Vitter, who have questions that will be submitted for the record.

We appreciate your patience very much for your staying here, and we are adjourned.

Ms. LITTLE. Thank you.

[Whereupon, at 11:21 a.m., the committee adjourned.]

[Additional statements submitted for the record follow:]

STATEMENT OF ROBERT SHEA, ACTING DIRECTOR OF OPERATIONS, FEDERAL EMERGENCY MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY

Good morning Chairman Inhofe, Ranking Member Jeffords, and committee Members.

My name is Robert Shea, and I am Acting Director of Operations for the Federal Emergency Management Agency (FEMA). It is an honor to appear before this committee to discuss FEMA's authorizing legislation, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, commonly referred to as the Stafford Act, its authorities, policies and procedures. I am also prepared to discuss the challenges we face in effectively removing large amounts of debris following catastrophic disaster events.

In authorizing the Stafford Act, Congress made clear its intent for the Federal Government to provide short-term, emergency assistance to individuals, States and local governments and qualified non-profits to help reduce the suffering and repair the damage that results from disasters. Congress recognized that disasters cause human suffering, property loss and damage, and disrupt the normal functioning of governments and communities. When this happens the Stafford Act provides a method of assisting the affected States to render aid and emergency services, and to help with the reconstruction and rehabilitation of impacted areas.

The Stafford Act created that mechanism, and while there have been amendments, the basic provisions remain in place today. Through Executive orders, the President has delegated to FEMA, now within the Department of Homeland Security (DHS), responsibility for administering the Stafford Act. FEMA carries out a wide range of activities under the authorities contained in the Stafford Act, from the obvious such as providing assistance to individuals and communities after a disaster, to the not-so-obvious, such as updating flood maps, supporting the monitoring and inspection of dams, training emergency managers, developing "rain-the-trainer" programs, and carrying out a robust program of predisaster mitigation.

In preparing for this hearing, FEMA was asked to specifically address two major issues, first, our policies and procedures relating to debris removal after a disaster and second, the impact of the Disaster Mitigation Act of 2000. FEMA appreciates the opportunity presented by this committee to discuss these issues.

DEBRIS REMOVAL

I would first like to address our role and authorities under the Stafford Act as they relate to debris removal, which is a part of FEMA's Public Assistance Program, and more specifically, our debris removal operations following the 2005 Hurricane Season.

Through FEMA's Public Assistance (PA) Program, State, tribal, and local governments and certain private nonprofit organizations are eligible to receive assistance for debris removal, emergency protective measures and the repair, reconstruction, or replacement of disaster-damaged infrastructure to address the impacts of a Presidentially-declared disaster. This program is operated on a cost-share basis whereby the Federal share of assistance is not less than 75 percent of the eligible cost.

In order to be eligible for FEMA PA funding for debris removal, the work must:

- Be a direct result of a Presidentially declared disaster;
- Occur within the designated disaster area; and
- Be the responsibility of the applicant at the time of the disaster.

In addition, at least one of the following must apply:

- Removal eliminates immediate threats to human lives, public health and safety;
- Removal eliminates immediate threats of significant damage to improved public and private property; and/or
- Removal ensures economic recovery of the affected areas to the benefit of the community-at-large.

FEMA has determined that the removal of disaster-related debris from public property, including public rights-of-way, is eligible for reimbursement. Debris removal from private property may be eligible on a case-by-case basis.

Disaster-related debris may consist of downed trees (vegetative debris), destroyed personal property including home contents and automobiles, hazardous waste, construction and demolition material, or even damaged boats and/or other debris that obstruct waterways. State and local applicants must comply with environmental and historic laws when removing disaster-related debris. Developing and executing a plan to remove and dispose of large quantities of debris requires coordination with numerous entities at all levels of government and, most importantly, with the citizens of the community.

State and local governments are responsible for managing the removal of disaster-related debris from their communities. FEMA provides funding for the removal of eligible debris and may provide technical assistance if requested by the State. These entities manage the operations using their own personnel and may also contract for the service. They are also responsible for monitoring the debris operations to ensure that they are completed in a timely and efficient manner and in compliance with Federal, State, and local laws.

While FEMA does not directly manage State and local debris operations, we do take an active role in providing technical assistance and oversight. FEMA deploys "debris specialists" to advise State emergency management and local officials on Public Assistance eligibility, appropriate contracting procedures and monitoring methods, and environmental compliance issues. In addition, FEMA frequently deploys U.S. Army Corps of Engineers (USACE) personnel to assist in providing technical assistance and to work with the State to develop an overall debris management plan for the disaster recovery process. FEMA may also deploy monitors to provide oversight of operations to ensure that the FEMA funding is provided for eligible debris removal, to ensure compliance with environmental regulations and programmatic guidelines, and to reduce the occurrence of waste, fraud, or abuse. FEMA field staff are very experienced in these efforts, however when exceptional expertise is required for complex environmental challenges, we enlist the EPA for that specialized assistance.

The magnitude of large-scale debris operations in some instances can overwhelm the State and local government's ability to perform or contract for the work. In such circumstances, the State can request Direct Federal Assistance under section 403 of the Stafford Act, whereby the Federal Government assumes responsibility for removing debris from a specific area because the local community, as supplemented by State resources, is incapable of performing the work itself or contracting for the service. In these situations, FEMA will "mission assign" the U.S. Army Corps of Engineers to perform and manage the debris mission. The Corps and FEMA are the two primary or lead agencies for Emergency Support Function No. 3 under the National Response Plan. The Corps' Debris Planning and Response Team and Subject Matter Experts coordinate closely with FEMA, State and local governments, and other Federal agencies to define requirements for the mission. In anticipation of debris missions and because of lessons learned during the 2005 hurricane season, the Corps has awarded stand-by debris contracts under its Advanced Contract Initiative to minimize any delays in beginning the work in the aftermath of the disaster. We are also working with State governments to encourage similar approaches at the State and local level.

In the cases of Hurricanes Katrina and Rita, widespread destruction resulted in unprecedented quantities of debris. FEMA estimates Katrina and Rita resulted in a staggering 118 million cubic yards of debris more than double the amount of debris produced by the four hurricanes that struck Florida in 2004 and six times the amount of debris created by Hurricane Andrew. To truly understand the magnitude, imagine 368 football fields with debris stacked 192 feet high or every inch of Washington, DC covered with half a foot of debris. To haul this amount of debris would require approximately six million average sized dump trucks.

All of the affected Gulf Coast States, Alabama, Louisiana, Mississippi, and Texas requested Direct Federal Assistance for debris removal. Although in many areas the debris mission is managed by the Corps, many local communities also made the decision to handle their own debris operations. For the Gulf Coast, we estimate that approximately 46 percent of the debris was handled by the local communities while the Corps managed the removal of the remaining 54 percent. The USACE and local debris operations are now complete in Texas and Alabama. Currently in Mississippi, we estimate a total of 1.9 million cubic yards is remaining while over 44.64 million cubic yards has been removed. In Louisiana, 42.9 million cubic yards has been removed with an estimated 17.1 remaining. In total, approximately 99 million cubic yards of debris has been removed—about 83.8 percent of the estimated total for all

four States. The cost thus far is just under $3.7 billion with a projected total cost of approximately $4.7 billion.

Just the act of removing, hauling and disposing of this quantity of debris poses a significant challenge. USACE and the local communities have procured and manage a large number of contractors and equipment. But debris management is far more complex than just procuring and overseeing contractors. It requires a coordinated effort from wide array of government agencies at the Federal, State, and local level. For example, a typical debris management organization includes Federal representatives from FEMA, the Corps, and the Environmental Protection Agency and State officials representing emergency management, transportation, and environmental agencies, to name just a few. These agencies coordinate with local officials to ensure appropriate procedures are in place for handling, transporting and disposing of the debris. A number of permits and, in some instances, waivers to State and local ordinances are required from government agencies when handling such large amounts and varied forms of debris, which often includes hazardous waste. Decisions on priorities, pick-up schedules, handling methods, transportation routes, reduction and recycling processes, monitoring procedures, and final disposal options all require coordination with a wide array of governmental agencies. Adding another level of complexity is keeping the public informed on how, when, and where debris will be picked up when operations are occurring at a rapid pace.

Because of the sheer magnitude of devastation and the need to clear debris as quickly as possible from the Gulf Coast, FEMA took a number of measures to expedite the process of debris removal. For example, immediately after the storms hit, FEMA determined, based on its review of the magnitude and scale of the destruction, as well as a declaration of a Public Health Emergency by the Secretary of the Department of Health and Human Services, that it was in the public interest to remove debris from residential property in the hardest hit counties and parishes. This decision allowed local applicants to begin comprehensive debris operations immediately. In addition, the Corps activated its standby contracts and procured other contracts to meet the urgent requirement.

While we were able to stream-line some approval processes, the conditions on the ground and the statutory and regulatory compliance requirements presented unique challenges that affected the ability of local and USACE operations to remove and dispose of debris quickly. Some of these challenges are unique to this event, and arise from the large scale destruction, or near destruction, of private residences and commercial structures. In particular, the sheer number of structures demolished has caused unprecedented challenges with respect to waste-stream management and compliance with environmental regulations.

An example of the types of regulatory challenges includes the number and location of landfills in operation which are permitted for the types of waste generated by Katrina. FEMA may only reimburse or assist with the removal and disposal of debris in full compliance with Federal and State environmental regulations. Thus, debris operations must respect existing permits and other restrictions which regulate the amount certain types of debris per day in certain categories of landfills. Additionally, the disposal of debris from residential and commercial structure demolition requires compliance with regulations regarding hazardous materials, such as asbestos. These regulations require specific handling both in the removal and in the disposal of these materials, permits from the appropriate local and State agencies and, in some instances, concurrence from the Environmental Protection Agency. These are just a couple of examples of the challenges that FEMA and its Federal, State, and local partners face and work together to overcome as we attempt to establish an efficient debris operation.

FEMA constantly reviews operations to identify lessons learned and best practices. Following Hurricane Katrina, for example, FEMA developed a number of process and policy improvements to better assist State and local governments in their debris operations. We recently issued a contracting fact sheet that provides local governments with contract language and provisions to incorporate into their contracts that will help protect them from unscrupulous contractors and poor performance as well as optimize their reimbursement from the Public Assistance Program. Other recently developed policy documents address eligibility issues, such as stump removal, which removes the ambiguity over what work FEMA will reimburse.

In addition, we revised our policies to ensure a consistent cost share for debris operations performed both by local communities and under USACE mission assignments. This policy also limits mission assignments to 60 days and will encourage local communities to take control over their recovery contracts earlier in the process. I should note that, when warranted, this time frame can be extended.

Both FEMA and USACE are examining different methods, including technological advancements, to improve the effectiveness of our grant and contract monitoring

processes. We are also evaluating different monitoring techniques that have been employed in the field to develop a strategy that assures local government and contractor accountability without over extending our resources.

Another means of improving debris operations is to expand the resources and tools available to State and local governments. To that end, we established a nationwide debris contractor registry that will allow State and local governments to identify contractor resources either in the pre-event planning phase or in a post-disaster environment. From this database, State and local officials will be able to match their resource needs to those available from the registered contractors and then solicit bids and proposals as they deem appropriate.

We at the Federal level will continue to look for ways to improve our support for debris management operations, but our success ultimately relies on the ability of State and local governments to proactively prepare for disaster response and debris operations. It is an extremely important responsibility for local communities, particularly those in high risk areas, to plan for large scale debris operations and address some of the complex conditions they will be confronted with, such as private property debris, demolition, and environmental compliance, which I mentioned earlier. Clearly, local governments are most familiar with their own State and local procurement requirements, permitting processes, local contractors, landfill operations, etc. Looking to FEMA, USACE or any other Federal Agency to manage local debris operations or resolve many of the complex issues inherent with debris operations is neither appropriate nor realistic.

FEMA has developed substantive guidance documents and policies to assist local communities in developing and executing debris management plans. We also offer Debris Management training to State and local officials, and will continue to look for ways to educate and help communities plan for post disaster debris removal operations. We will provide technical assistance to States and local governments in developing debris management plans before an event takes place and actively encourage them to hire stand-by debris contractors prior to disasters occurring. FEMA will always be ready to provide help at the time of a disaster, but for our efforts to be successful, our State and local partners must be prepared and to act quickly and responsibly.

MITIGATION

In addition to the authorities the Stafford Act gives FEMA to assist State and local governments in repairing critical infrastructure and removing debris following a disaster event, it also provides for a variety of mitigation programs and activities. The overriding goal of mitigation programs and activities is to reduce the potential for future loss of life and property within the disaster area.

In authorizing the Disaster Mitigation Act of 2000, Congress recognized that greater emphasis needed to be placed on identifying and assessing the risks to States and local governments from natural disasters; implementing adequate measures to reduce losses from natural disasters; and ensuring the critical services and facilities of communities would continue to function.

Congress also recognized the vitally important role that hazard mitigation plays in reducing the physical and financial impacts of natural disasters. Through FEMA's 10 Regional offices, FEMA's Mitigation Division assists States and communities in incorporating mitigation elements—such as building and design codes that address specific risks, structural strengthening and reinforcement, and natural hazard-focused land use planning into their decision making processes. Sound mitigation planning and viable mitigation activities reduce an area's potential for "disaster" after an event strikes. Destruction and distress are lessened; which facilitates effective response and promotes faster recovery.

An important component of DMA 2000 was the authorization of an expanded Hazard Mitigation Planning requirement. I am pleased to report that as a result of this requirement, all 50 States and more than 8,000 localities now have hazard mitigation plans in place.

Mitigation planning provides a framework and an approach within which States, Tribes and localities reduce their vulnerability to natural hazards, thus lessening the Nation's total disaster losses. Developing a hazard Mitigation plan provides additional benefits as well. It helps raise awareness of risk, position State, local and tribal officials to take advantage of the resources available during post-disaster recovery, and enable them to rebuild expeditiously in a way that will mitigate future disaster losses.

State plans are the "gateway" to FEMA grant assistance. States and Territories must have a FEMA approved Multi-hazard Mitigation Plan that meets the DMA 2000 requirements in order for communities within the State to be eligible for non-

emergency assistance under the Stafford Act. Both the Hazard Mitigation Grant Program (HMGP) and the Pre-Disaster Mitigation Program (PDM) provide planning grants to help fund those plans.

There are two levels of State multi-hazard mitigation plans—Standard and Enhanced. The Standard plan meets the minimum requirements for a State plan, and entitles States to receive HMGP funding after a disaster. The amount of post-disaster funding available for mitigation is equal to 7.5 percent of disaster assistance funding (Public Assistance plus Individual Assistance). At this time, all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and more than 10 Tribal governments have an approved State-level mitigation plan in place.

The Enhanced plan allows the State to receive additional post-disaster mitigation funding of up to 20 percent of disaster assistance funding. The enhanced plan must meet all of the Standard plan requirements and must document the State's proactive approach and commitment to mitigation, and its capability to manage the increased amount of funding that may be made available. Seven States now have approved Enhanced State mitigation plans: Maryland, Missouri, Oregon, Ohio, Oklahoma, Washington and Wisconsin. Enhanced plans for Florida and Virginia are pending.

State-level plans lay the foundation for an overall mitigation strategy for the communities within their jurisdiction, and make funding available to those communities to develop and implement their local mitigation plans and projects. More than 8,000 local jurisdictions have FEMA-approved mitigation plans. Because many of these plans are multi-jurisdictional plans, the total number of jurisdictions that are covered by approved plans is approximately 13,000.

We are extremely proud of these numbers. They provide hard evidence that all our States and thousands of local communities are taking mitigation seriously and thinking strategically about what they can do to reduce their losses from future natural disasters. This provides a robust benefit in both physical and economic terms—which, of course, was the intent of the Congress when it authored DMA 2000. A recent independent study conducted by the Multihazard Mitigation Council at the request of the Congress concluded that, on average, $1 spent on mitigation saves society an average of $4. That translates into hundreds of millions in savings every year—and it begins with sound mitigation planning.

The mitigation planning process is not static. It changes and is refined over time. One of our greatest successes has been our ability to work closely with our State, local and Tribal partners in this effort, drawing on the experience they have gained in preparing and implementing their plans over the last several years.

This past May, FEMA invited one State from each Region to discuss the plan update process. At this meeting, we asked the States to identify some of their successes and perceived benefits from going through the mitigation planning process. These benefits fell into three major categories, which I will briefly summarize:

- Improved Risk Assessment
- Interagency Coordination and Planning Committees; and
- Coordination with Local Planning Officials

Although FEMA is encouraged by the progress that has been made, there is still much to be done. Natural disasters can strike anytime, anywhere. The type of disaster, however, varies from one locality to another, and even then differences in terrain and climate can greatly affect the impact of the event and the types of mitigation measures that can be used. After all, elevating your home to protect it from floodwaters will do little good during an earthquake.

Mitigation planning helps FEMA and its State, local and Tribal partners to accurately assess their risk. The benefits of this are twofold. First, it helps jurisdictions that are impacted by a natural disaster rebuild in a way that will reduce future damage. Even as we speak, buildings across the Gulf Coast are being elevated or relocated, so they will be safer and more resilient when the next hurricane strikes.

Mitigation should not just be considered once a disaster strikes. Congress recognized that by undertaking mitigation plans and projects predisaster, we can greatly reduce the loss of lives and property before disaster even strikes. With this in mind, the DMA 2000 authorized the creation of the Pre-Disaster Mitigation Program (PDM).

The PDM program recognizes that by identifying areas at greatest risk of natural disaster and implementing effective mitigation activities in those areas, we can greatly reduce future disaster losses. Based on lessons learned from the PDM FY 2003 and FY 2004/2005 programs, FEMA instituted changes to ensure all funds for PDM projects and plans are awarded as quickly and efficiently as possible. Specifically, FEMA has established a standard application form. This occurs through the

required use of the FEMA Mitigation electronic grants management system (e-Grants) to facilitate application development and processing.

We have enhanced guidance materials to provide more detail on grant requirements. We have increased offerings of extensive benefit-cost analysis and e-Grants training, and streamlined FEMA application review procedures, the National evaluation process, and the national technical review process to the point where for the FY 2006 program it has only taken 7 months from the time the application period opened in November 2005, until first awards were made in June 2006.

We also provide a more robust technical assistance program consisting of Web and help line resources for application development, benefit-cost analysis, environmental and historic preservation compliance, engineering feasibility, and planning.

Since the Hazard Mitigation and Relocation Assistance Act of 1993 amended the Stafford Act, principal mitigation activities funded under the HMGP include mitigation planning, acquisition of hazard prone properties with conversion to open space (including either demolition or relocation of the structure), and the elevation of structures to or above expected flood levels. These are also principal activities of the PDM program, instituted following the Disaster Mitigation Act of 2000 amendments. To date, FEMA has obligated nearly $1.5 billion for planning, acquisition, and elevation activities through HMGP and PDM. If we follow the findings of the Multihazard Mitigation Council's report—that, on average, $1 spent on mitigation saves an average of $4—we can conclude that the mitigation grant programs have saved this country approximately $6 billion.

FEMA strongly encourages the reauthorization of the DMA 2000 amendments to the Stafford Act, in order to ensure their continued success. By planning and preparing beforehand, we ensure better protection for our citizens, their homes and their businesses, and greater savings for the entire Nation.

Even with the assistance authorized by the Stafford Act to help individuals in communities, following a disaster, be it natural or manmade, this nation's emergency response capability can be severely tested, as has been proven by the enormous challenges the Nation faced in recent years. From the flooding in Houston from Tropical Storm Allison, the terrorist attacks of 9/11, back-to-back unprecedented hurricane seasons in 2004 and 2005, and a myriad of other disasters that have impacted this nation, we have gained many lessons learned, and used the flexibility of the Stafford Act to expand the bounds of the types of assistance we are able to provide. At times beleaguered, FEMA has always pressed forward with the commitment of putting the lives and welfare of disaster victims first.

There is much that can, and has been done to enhance FEMA's programs and processes as we move forward, preparing not only our Agency, but the Nation for the current season or any future disaster. We will continue to engage with State emergency management officials, our Federal counterparts, including the Department of Defense, and non-government organizational partners to maximize communication and coordination for all-hazard disaster preparedness, response, recovery, and mitigation activities. We are building within FEMA a twenty-first century competency in operations, logistics, procurement and communications to speed much needed equipment, aid and commodities to States affected by disasters. We will also continue to strengthen our mission effectiveness and operational efficiency and establish measures and benchmarks, so we are held accountable for our performance. FEMA will also benefit from the continued integration into the Department of Homeland Security, where the Agency has gained access to many valuable resources that strengthen our ability to respond to disasters of any kind.

It is important to note that in a disaster of unprecedented proportions, FEMA's debris operations, mitigation programs, and indeed all areas of assistance service delivery are under scrutiny by the general public and Congress. We realize that for the individuals and communities picking up the pieces of their lives, we must be able to efficiently and effectively meet their needs. FEMA is looking closely at its authorities and the various after action reports, and we look forward to working with Congress on suggested and recommended changes to the Stafford Act and related authorities.

Thank you for the opportunity to appear before this committee, I will respond to any questions you have.

STATEMENT OF MAJOR GENERAL DON T. RILEY, DIRECTOR OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

INTRODUCTION

Mr. Chairman and members of the committee, I am Major General Don T. Riley, Director of Civil Works for the U.S. Army Corps of Engineers (USACE). Thank you for the opportunity to testify before you today concerning the Corps' disaster-relief missions under the Stafford Act. The Corps has a long standing, highly effective relationship in support of Federal Emergency Management Agency (FEMA) under the former Federal Response Plan (FRP) and now the National Response Plan (NRP). We also have major responsibilities for disaster planning, response and recovery under our own authority (Public Law 84–99), our Civil Works infrastructure missions (Flood Damage Reduction, Navigation, and Hydropower) , and our inherent responsibility to support the Department of Defense in execution of any of the Department's disaster relief missions as required. I will address my comments this morning to our role in support of FEMA under the Stafford Act and National Response Plan.

Under the National Response Plan, the Corps has primary responsibility for Emergency Support Function No. 3, Public Works and Engineering, and several assigned tasks in support of the other Emergency Support Functions (ESF) specified in the Plan. Our mission portfolio during major disaster response will typically include activities such as provision of ice and water, debris clearance and disposal, temporary roofing, emergency power to critical facilities, and assistance to FEMA with provision of temporary housing.

Based on 14 years of experience in executing missions under the FRP and NRP, I believe the Stafford Act and the NRP have the empowering authorities and tools needed to be successful in performing our assigned missions. Response to Hurricane Katrina was a tremendous challenge for USACE and all responding Federal and State agencies given the catastrophic nature of the mission workload and many limiting factors that impacted the initial response. However, a look at the overall mission execution tells us that more water and ice were delivered faster than ever before, and the debris mission, which has a magnitude several times that of Hurricane Andrew in 1992 (the previous record in terms of mission magnitude), has also seen achievement in terms of debris removed in the 9 months since the event, that exceeds any previous hurricane mission experience. Many lessons learned have been documented that can only be gained through such an experience. These lessons learned have led to improvements to our operational procedures and training. One area that needs more attention is how we transfer this knowledge back to the local governments so they too can benefit from these lessons learned, plan more effectively, and eventually be better prepared to manage more of their own recovery operations. This transfer of knowledge is needed throughout all USACE NRP missions that include commodities, temporary power, roofing, temporary housing, and debris. One solution we are developing with FEMA is to have, as part of the overall Federal concept of operations and initial mission assignments, a requirement to work with the local governments covered by the declaration to provide a localized plan for each mission that is based on the actual response details gained from the event. This concept will help transfer the knowledge gained and leave the local governments with a proven operational plan. The National Incident Management System provides for this integration of Federal, State and local planning and operations, so the authorities and plans are already in place to facilitate this improved coordination.

Pre-event preparedness, to include enabling mitigation actions, based on lessons learned and best practices, is critical to minimizing post event damage and to reduce the number of citizens that become victims. The mitigation program and the lessons learned process are two methods used to assist in determining which actions a community should perform. The U.S. Army Corps of Engineers through their Floodplain Management Services Program, provides advice and assistance to communities in terms of reducing their flood risk with regard to community infrastructure. The Corps Flood Damage Reduction authorities provide a broad range of Flood mitigation tools that are used in supporting State/Local flood mitigation objectives.

The life-cycle lessons learned process consists of: planning; exercising the plan (through exercise or a real event); evaluating the successes and opportunities for improvement; documenting best practices and developing corrective actions; revising the plan to include the best practices and implementing the corrective actions. Mitigation and lessons learned are tied to routine pre-event meetings and post-event processes. FEMA's Regional Mitigation staff and USACE Districts provide mitigation services year round to local communities and States. A forum used to highlight preparedness is the FEMA Regional Interagency Steering Committee (RISC) meet-

ing. RISC meetings are usually conducted quarterly and attended by representatives from all Federal ESFs and States within the respective FEMA region. In addition, several States conduct annual hurricane exercises and conferences where Federal, State and local interests and concerns for specific geographic areas are raised.

Over the last 3 years, there has been a significant increase in planning. USACE, in coordination with FEMA, has provided States with planning tools and assisted in preparedness efforts, especially in the areas of commodities planning (quantities required and distribution point set-up), temporary power, and debris management. These planning tools, briefings, and actions taken were developed as a result of lessons learned from past disasters. While there is always room to improve and more communities to get involved, these efforts have resulted in some coastal States improving their preparedness posture. The Corps has authority under PL 84–99 to plan and prepare for our NRP missions in coordination with Department of Homeland Security (DHS)/FEMA, other Federal agencies and State and local agencies. The Corps will also be working closely with DHS Preparedness Directorate in the future to insure that DHS programs and grants support the building of State and local "Public Works and Engineering" capabilities. For example, State and local capabilities to manage debris operations vary widely. With more emphasis on comprehensive debris planning, State and local governments would be much better prepared to manage these types of operations on their own. There are also requirements for State and local governments to assess generator needs at critical facilities and to prioritize possible temporary power requirements in advance of an emergency. Some States have made progress in this area, but there is still much work to be accomplished. With additional planning and coordination, the intergovernmental team will be better prepared to respond more quickly to temporary power needs at critical facilities. We will continue to aggressively pursue a lifecycle of improvements to our mission preparedness based on lessons learned from each disaster event, working closely with these key partners.

In reference to the on-going debris mission from FEMA, we have been following an acquisition strategy based on the concept of geographic set-asides under the Stafford Act as a follow-on strategy to our initial emergency contracting process put in place to handle the unprecedented amount of debris resulting from the effects of Katrina—as a result of both wind and flood. Our first attempt to use this State set-aside authority under the Act was in Mississippi. Our goal was to use the Act to generate contracting opportunities at the prime level for Mississippi disadvantaged, small and large businesses. Competition was limited to Mississippi companies only. Although the subject of a GAO protest, we eventually prevailed as the GAO held that our concept of using geography was valid. I'd also like to take this opportunity to thank the GAO for reviewing the protest using their expedited procedures. As a result we were able to get their ruling in 65 days versus the more normal 100 days. We are disappointed that we were not able to implement the Act in Mississippi after receiving the favorable GAO ruling. Circumstances and time conspired against us as the Mississippi debris removal efforts are projected to be completed by the end of this month. In reference to the State of Louisiana, we are pursuing a similar geographic-based acquisition strategy in using the Stafford Act and recent revised language in 42 U.S.C. §5150 signed by the President on April 20, 2006, removes all doubt that geographic set-asides may be used when appropriate.

The Corps of Engineers performed unprecedented debris operations in order to address the historic debris quantities and waste streams generated by Hurricanes Katrina and Rita. In the State of Louisiana, the Corps performed debris segregation, processing, handling, recycling, treatment, and disposal, as required, per waste stream in order to maintain timeliness and compliance with applicable regulations. Additionally, the Corps developed debris working groups, comprised of Federal, State, and local representatives, to provide a basis for daily input to debris planning and execution. Representatives from the Corps, the contractors, FEMA, Environmental Protection Agency, Occupational Safety and Health Administration, Centers for Disease Control, and Louisiana Department of Environmental Quality provided various field oversight roles as well as providing feedback to the working group on a daily basis concerning needs, status, and communications. After nine months of debris management, the following waste streams and quantities have been segregated and removed within the State of Louisiana.

Waste Stream	Quantity	Disposition
Vegetative	8.2 M cubic yards	Reused
Consolidation & Demolition	14.5 M cubic yards	Disposed

Waste Stream	Quantity	Disposition
White Goods	800,000 items	Recycled
Household Hazardous Waste	1.4 M items	Treated, Disposed
Electronic Waste	489,000 items	Recycled
Asbestos	136,000 cubic yards	Disposed
Tires	95,000 items	Recycled
Residual Solids	24,300 cubic yards	Disposed
Small Motorized Equipment	150,000 items	Recycled

While the process to manage all these waste streams can never be perfect, the Corps is pleased to have diverted so much debris from inappropriate placement in a landfill, which is the basis for so many concerns.

FEMA is the Primary Agency under the National Response Plan for Emergency Support Function No. 3 recovery activities, to include Federal debris support. During the 2005 Hurricane Season, FEMA tasked USACE to take the lead for Federal debris management assistance in certain localities in Mississippi, Louisiana, Alabama and Texas. EPA has worked closely with USACE, FEMA, and State and local governments to assist in these debris removal activities. For example, EPA assisted the States in developing guidance regarding demolition of structurally unsound buildings as well as guidance for debris burning. Along with FEMA and the USACE, EPA also provided assistance to the States as they developed their debris removal plans.

The Corps of Engineers takes pride in being a Learning Organization. We have learned that every event is different. Our goal is to immediately provide the urgently required immediate relief services to the impacted populations. We recognize that in urgent situations, mistakes can and do occur. There is also opportunity for unscrupulous individuals to take advantage of the system. We work to strike a balance between expeditiously providing relief to those in need and limiting the opportunities for malefactors. Our solution is to immediately deploy Corps internal auditors, teamed with the Defense Contract Audit Agency and the U.S. Army Criminal Investigation Command, to oversee all emergency response efforts (both Corps and contractors' operations) to help detect early in the process actual or potential mistakes, help mission managers comply with their fiscal stewardship responsibilities, and detect instances of fraud, waste, or abuse. Corrective actions are implemented immediately to address problems or weaknesses identified by these teams. We have learned that by doing so, we not only improve our processes, but avoid unnecessary or wasteful expenditures, and become more efficient. I welcome the reviews conducted by external audit and investigative activities as they are also a valuable tool to help us identify potential vulnerabilities and weaknesses in processes and procedures.

As noted earlier in this statement, part of being a Learning Organization is implementing actions to correct our mistakes and strengthen our weaknesses. Several years ago the Corps instituted a formal procedure, our Remedial Action Program, to capture lessons learned and adjust our processes for future events. Simply put (although this is not a simple process) for each emergency event we prepare After Action Reports, which include issues and weaknesses identified from all sources during our response efforts. We attempt to correct or strengthen our procedures and adjust supporting Standard Operating Procedures (SOPs). Personnel are trained on the new procedures and then we conduct exercises, which help us determine whether the corrective actions were effective. Where necessary, the procedures and SOPs are adjusted and placed in readiness for the event. We then start this process all over again.

In the future to be best prepared we may need to think beyond our traditional assistance methods. The critical missions of commodities distribution, providing temporary power, temporary housing and debris management require skills not often maintained by local governments. They are, however, maintained by some State governments and by FEMA, the supporting ESFs and within the private sector. Individuals with these skills can be pulled together, both pre- and post-event, to develop plans for the specific communities in those specific areas. The result could be a local community with planned distribution points, critical generator requirements pre-identified, debris clean-up planned and more quickly performed, and temporary housing sites pre-identified allowing for quicker construction and occupation by displaced citizens.

SUMMARY

To close, I would like to thank you once again, Mr. Chairman, for allowing the Corps of Engineers the opportunity to appear before this committee to discuss our activities in support of FEMA under the Stafford Act. Many Corps personnel have served our Nation by helping in the response to natural disasters in Texas, Louisiana, Mississippi, Alabama, Florida, or elsewhere in the Nation or the world. We are proud to do so. I would be happy to answer any questions Members of the committee may have. Thank you.

RESPONSES BY DON T. RILEY TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please discuss the assignment of responsibility for water borne debris and spills in disasters such as Hurricane Katrina. What is the role of the EPA, the Coast Guard, or the Corps of Engineers?

Response. Multiple agencies have responsibilities and/or authorities related to the removal of debris, to include waterborne debris, following a disaster. After an incident occurs, representatives from these agencies come together in the Joint Field Office to develop disaster specific debris removal plans. The following is a list of agencies and a description of their responsibilities and authorities related to the management of waterborne debris:

U.S. Army Corps of Engineers.—When direct Federal assistance is required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) for the removal of eligible waterborne debris, FEMA can mission assign the U.S. Army Corps of Engineers (USACE) to provide this assistance.

Sections 15, 19, and 20 of the River and Harbor Act of 1899, authorize USACE to remove sunken vessels or other obstructions from navigable waterways under emergency conditions. A navigable waterway is one which USACE operates and maintains for navigation, as authorized by Congress. The Corps would remove a vessel using its emergency authorities only if an owner, operator or lessee cannot be identified OR said owner, operator or lessee cannot effect removal in a timely and safe manner.

USACE is authorized under Flood Control and Coastal Emergencies (PL 84–99) to provide assistance for debris removal from flood control works (structures designed and constructed to have appreciable and dependable effects in preventing damage by irregular and unusual rises in water level). This type of assistance requires that an applicant be an active participant in its PL 84–99 Rehabilitation and Inspection Program at the time of the disaster.

DHS/Federal Emergency Management Agency (FEMA).—Under the Stafford Act, FEMA has the authority to provide debris removal assistance, to include waterborne debris, to eliminate immediate threats to lives, public health and safety; eliminate immediate threats of significant damage to improved public or private property; or to ensure the economic recovery of the affected community to the benefit of the community-at-large.

The waterborne debris must be the direct result of the disaster and located in the disaster area; and, the applicant must have legal responsibility to remove the debris.

The assistance is usually cost-shared at no less than 75 percent Federal and 25 percent non-Federal. In some circumstances, FEMA will provide up to 100 percent funding for a limited amount of time.

FEMA reimburses applicants to remove eligible debris or can provide direct Federal assistance through a mission assignment to another Federal Agency upon request of the State when it has been demonstrated that the State and local government lack the capability to perform or contract for the requested work.

FEMA can provide direct Federal assistance for the removal of waterborne debris through a mission assignment to another Federal Agency upon request of the State when it has been demonstrated that the State and local government lack the capability to perform or contract for the requested work.

Environmental Protection Agency.—Under the National Contingency Plan (NCP), EPA is responsible for providing pre-designated Federal On-Scene Coordinators (FOSCs) to conduct emergency removal of oil and hazardous materials.

EPA has responsibility for the inland zone and the delineation between coastal and inland is by mutual agreement with the United States Coast Guard and the geographic limits are indicated in Area Contingency Plans.

Hazardous material removals are conducted using the Comprehensive Environmental Response, Compensation, and Liability Act fund (CERCLA), otherwise known as Superfund.

Under CERCLA and the Clean Water Act, EPA has the authority to respond to actual or potential discharges of oil and actual or potential releases of hazardous substances, pollutants and contaminants that may endanger public health or the environment.

Response actions may include containment, stabilization, decontamination, and disposal. Debris may be mixed with, or contain, oil or hazardous materials that are subject to these EPA response authorities.

Oil removals are conducted with funding from the Oil Spill Liability Trust Fund.

United States Coast Guard (USCG).—USCG has the responsibility to keep waterways safe and open under the Ports and Waterways Safety Act (33 U.S.C. §§1221), but there is no specific language stating that the USCG is responsible for debris removal from waterways. However, the USCG has been tasked in the past to assist in waterways and marine transportation system recovery.

The USCG may also be assigned Stafford Act missions to assist in the removal of debris in waterways.

Under the National Contingency Plan (NCP), the USCG, along with the Environmental Protection Agency (EPA), is responsible for providing pre-designated Federal On-Scene Coordinators (FOSCs) to conduct emergency removal of oil and hazardous materials.

USCG is responsible for the coastal zone and the EPA is responsible for the inland zone. The delineation between coastal and inland zones is by mutual agreement between the USCG and the EPA and the geographic limits are indicated in Area Contingency Plans.

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as Superfund, and the Clean Water Act, USCG has the authority to respond to actual or potential discharges of oil and actual or potential releases of hazardous substances, pollutants and contaminants that may endanger public health or the environment.

Response actions may include containment, stabilization, decontamination, and final disposal. Debris may be mixed with, or contain, oil or hazardous materials that are subject to these USCG response authorities.

USDA/Natural Resources Conservation Service (NRCS).—NRCS' Emergency Watershed Protection Program (EWP) is authorized by section 216 of the Flood Control Act of 1950, PL 81–516, 33 U.S.C. 701b-1; and section 403 of the Agricultural Credit Act of 1978, PL 95–334, as amended by section 382, of the Federal Agriculture Improvement and Reform Act of 1996, PL 104–127, 16 U.S.C. 2203.

Debris clean up must be for either runoff retardation or soil erosion prevention that is causing a sudden impairment in the watershed creating an imminent threat to life or property. Typically, this includes debris within channels but could also include debris in close proximity to a channel or situated where the next event could create an imminent threat to life or property. There is no size limit to the watershed except that EWP assistance is not eligible for coastal erosion restoration.

Assistance is funded through specific Congressional appropriations.

Public and private landowners are eligible for assistance but must be represented by a project sponsor (a State or political subdivision thereof, qualified Indian tribe or tribal organization, or unit of local government).

Sponsors are responsible for the local cost share and the installation of work.

Work can be done either through Federal or local contracts.

NRCS can provide assistance when the President declares an area to be a major disaster area or when an NRCS State Conservationist determines that watershed impairment exists.

Question 2a. In the event of a terrorist attack involving a "dirty bomb" or nuclear device, what agencies would be involved in the clean up of contaminated debris?

Response. Under the NRP, it is expected that the Department of Homeland Security (DHS) would declare an incident involving a dirty bomb or nuclear device as an Incident of National Significance (INS). It also is likely that the President would issue a Stafford Act declaration to provide Federal assistance to State and local governments. Under this scenario, DHS would coordinate the overall Federal response; FEMA would be responsible for tasking Federal agencies to assist with the response under the Stafford Act. Under the Nuclear/Radiological Incident Annex of the NRP, different Federal agencies are assigned as the "Coordinating Agency" for different types of nuclear/radiological events. The Coordinating Agency, in general, assists DHS in managing the overall radiological aspects of the response.

For radiological terrorist incidents, the Coordinating Agency would be:

(1) The Department of Defense (DoD) or Department of Energy (DOE) for terrorist incidents involving their facilities, materials, or weapons:

(2) The Nuclear Regulatory Commission (NRC) for terrorist incidents involving material or facilities licensed by the NRC or an Agreement State; or
(3) The DOE, for terrorist incidents not covered by the categories above. For this category, the role of Coordinating Agency transitions to EPA for the environmental cleanup phase.

Multiple Federal, State and local agencies would be involved in the clean up of contaminated debris. The following federal agencies would have significant roles:

Environmental Protection Agency (EPA).—Under the National Response Plan, EPA has the lead for the environmental cleanup phase of recovery operation.

FEMA.—Under the National Response Plan, Emergency Support Function No. 3, Public Works and Engineering, FEMA is the Primary Agency for Recovery, to include debris/contaminated debris management.

U.S. Army Corps of Engineers.—FEMA may mission assign the U.S. Army Corps of Engineers to execute contaminated debris management responsibilities.

Federal Bureau of Investigation (FBI).—FBI would have crime scene responsibilities and would be involved in evidence that may be a part of the debris field.

Department of Transportation (DOT).—DOT would have responsibilities related to the transportation of contaminated debris.

Department of Energy (DOE).—DOE would provide scientific and technical support and would be involved with the relocation and storage of radiological/nuclear material.

Department of Labor/OSHA.—OSHA would be involved with the protection of worker safety and health, prevention of injuries and illnesses and compliance inspections and investigations.

Department of Health and Human Services (HHS).—HHS would be involved with public health and safety related to debris removal operations.

Question 2b. Who is in charge?

Response. The National Incident Management System would be used on the ground as the framework for managing the overall operations, to include the management of the contaminated debris operations. The system is flexible and scalable and incorporates "unified command" concepts when multiple agencies and jurisdictions are impacted.

DHS is overall coordinator of the Federal support to incidents of national significance and the Nuclear/Radiological Incident Annex of the National Response Plan lays out Federal responsibilities for a radiological/nuclear response.

Question 2c. Are the standard procedures of the NRP going to be deployed, or will other procedures be used?

Response. The NRP superseded the Federal Radiological Emergency Response Plan and is now the core operational plan for national incident management, to include radiological and nuclear incidents.

The Nuclear/Radiological Incident Annex of the NRP lays out responsibilities the management of the overall radiological/nuclear response.

Question 3a. What revisions to the Stafford Act would you recommend in light of our experience after a catastrophic disaster like Katrina?

Response. The Stafford Act has the authorities and tools USACE requires to execute missions, even for a catastrophic disaster like Katrina.

Question 3b. Are long-term recovery policies and authorities sufficient? What are the limits and strengths of the existing recovery policies?

Response. FEMA sets the policies for Stafford Act related recovery activities. Policies that seem reasonable during a small or even a major disaster may not be fair or reasonable during a catastrophic disaster. For example, many of the "normal" debris eligibility policies early on after Katrina made landfall were enforced, but gradually policies were relaxed to take into account the catastrophic nature of this event. Not having catastrophic policies in place early on led to some inefficiencies in managing the debris operations and inconsistencies in how policies were implemented. Additional catastrophic planning and exercises are needed to determine issues and develop courses of action that will be used to address recovery policies for a catastrophic incident.

Examples of policy decisions that were "relaxed":

- Decisions to modify cost sharing policies to allow for full Federal funding of debris removal operations over and extended period.
- Decisions to allow the removal of trees that were killed as a result of being exposed to salt water.
- Decision to allow for the removal of "commercial" debris that posed a hazard if another tropical storm impacted the area.
- Decisions to allow the removal of "commercial debris" in certain urban areas.

- Decisions to allow contractor to remove debris from private property in some areas under certain conditions.
- Decisions to allow the removal of spoiled meat from private processing and cold storage facilities.

RESPONSES BY DON T. RILEY TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1a. Can you elaborate on your response to this question posed during the hearing: In response to some questions I posed to the Army Corps in a letter regarding the pace of debris clean-up, the Corps identified the following hurdles: the slow pace of residents returning, asbestos regulations, proximity of landfills, and limits on the amount of debris certain landfills may accept. What is your Agency doing to eliminate those hurdles for the Gulf Coast and to prevent them from becoming hurdles in future disasters?

Response. USACE is continuing a partnership with EPA regarding asbestos regulations and contaminated debris removal and disposal. This partnership will help leverage the strengths of both agencies to better respond in the future. USACE has no authorities to influence the pace of returning residents, proximity of landfills, or the limits on amounts of debris a landfill may accept. The permitting of landfills and their acceptable daily limits is the responsibility of State Agencies. These parameters change with every event. USACE does support local planning efforts by providing models and parameters for locating and sizing temporary reduction sites.

Question 1b. Are you working with local communities and States to establish preexisting debris clean-up contracts?

Response. USACE provides support to local governments by providing example scopes of work and assisting in reviewing contract scopes. USACE has a public intergovernmental web site to transfer planning and modeling information to local governments. This site provides key planning information for commodities, emergency power and debris. In addition USACE is often tasked by FEMA following a disaster to provide technical assistance to State and local governments for debris contract reviews and operational guidance.

The Corps of Engineers is working with local communities in Mississippi to help develop scopes of work for debris contracts to finish the debris cleanup in Mississippi. FEMA is working with the State and the local communities to assist them in making sure they are reimbursed for debris costs under the FEMA programs. The Corps has no specific authority or funding to assist the locals or State in developing debris cleanup contracts for future events—however, the technical assistance being provided will also be valid for future debris contracts.

Question 1c. Are you reviewing the debris contracts issued during Katrina to evaluate contracting procedures?

Response. Yes, USACE has received 27 recommendations from Army Audit Agency and have plans to implement most of these recommendations by June 2007.

Question 1d. Are you considering legislative recommendations regarding the debris-handling mission?

Response. No legislative recommendations are being considered for handling the debris management mission. USACE has a robust corrective action program and we are actively addressing issues, developing courses of action and improving our operating procedures.

Question 2a. Chef Menteur 404 permit.—Under what authority did the Army Corps grant its emergency authorization to begin operation of the Chef Menteur landfill without a Clean Water Act section 404 permit?

Response. The Corps granted emergency authorization for the operation of the landfill in accordance with an existing general permit (NOD–20) for emergency activities that was issued in accordance with Corps regulations (see 33 CFR 325.5(c) and 325.8(b)). The Corps regulations are issued under the authority of section 404 of the Clean Water Act, sections 9 and 10 of the Rivers and Harbors Act of 1899, and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972. All National Environmental Policy Act and public notice requirements were met.

Division engineers have the authority to approve special processing procedures in emergency situations (33 CFR 325.2(e)(4)). In response to the emergency situation resulting from Hurricane Katrina, the Mississippi Valley Division approved emergency permit procedures on September 3, 2005, and December 22, 2005.

Question 2b. What is the duration of an "emergency authorization" and where is it defined?

Response. The terms of General Permit NOD–20 require the project proponent to submit to the Corps within 30 days of emergency authorization either a restoration

plan or a permit application to maintain the work. In the case of the Chef Menteur landfill, the project proponent submitted an application to maintain the work. The emergency authorization is valid until a permit is issued or denied or until such time the emergency no longer exists. The emergency procedures for the Corps regulatory program are generally defined at 33 CFR 325.2(e)(4), but the specific terms of emergency authorizations are at the discretion of the division engineer.

Question 2c. Has the Army Corps ever issued similar emergency authorizations elsewhere in the country, and if so, please describe the permitting activities including the location, purpose, and duration of emergency authorization, and final decision to issue/not issue a permit.

Response. The Corps has established emergency permitting procedures in many areas of the country, to respond to a number of emergency situations. Emergency permitting procedures have been approved to respond to hurricanes, floods, large-scale accidents (e.g., airliner crashes), and other catastrophic events. These procedures facilitate rapid responses to situations where activities regulated by the Corps are necessary to reduce unacceptable hazards to life, significant losses of property, or immediate, unforeseen, and significant economic hardships. The Corps regulations have contained provisions for emergency procedures for at least the past 35 years, and we cannot provide a complete list of these emergency authorizations.

Question 3. How do you respond to the Fish and Wildlife Service opinion that the use of the Chef Menteur landfill could result in persistent contamination of groundwater, surface water, and wetlands?

Response. For the Chef Menteur landfill, the Corps permitting authority is limited to authorizing discharges of dredged or fill material into waters of the United States to construct the landfill and its infrastructure. In the State of Louisiana, the lead Agency regulating the operation of landfills is the Louisiana Department of Environmental Quality (LDEQ). According to LDEQ, the Chef Menteur landfill is currently lined by a layer of at least 10 feet of compacted clay, which is substantially thicker than the thickness of constructed clay liners that are required by LDEQ for this type of landfill. The clay layer at the Chef Menteur landfill will impede the movement of contaminants from the landfill to adjacent groundwater, surface water, or wetlands.

Question 4a. Implied in the Corps' use of the term "emergency" in your letter granting permission to begin operation of the Chef Menteur landfill site without a wetlands permit in April of 2006 was an urgent requirement to provide a location for debris disposal. I understand that the Congressional Research Service currently estimates that there are about 44 million cubic yards of debris in Louisiana. According to the Government Accountability Office (GAO), immediately after the storm, there were estimates that up to 250,000 homes may have to be demolished. Today, that number stands somewhere between 15,000 and 22,000. GAO also reports that only about 1100 of those demolitions have occurred. My question goes to the use of the term "emergency". How much debris has been placed in the Chef Menteur landfill site since your authorization to proceed was granted in April, 2006?

Response. 800,000 cubic yards.

Question 4b. Given the slow pace of home demolition, why didn't the Corps choose to go through the normal permitting process prior to beginning delivery of debris to Chef Menteur?

Response. Debris from the demolition of homes is just one source of the debris that was going to the Chef Menteur landfill. Debris resulting from homeowners gutting and rebuilding their homes, as well as vegetative and other storm debris resulting from Hurricanes Katrina and Rita and removed from the streets, was also brought to the landfill. As long as this debris remains on neighborhood streets and curbsides, it presents an environmental and safety hazard.

Question 5. How does the Corps justify its emergency permitting action given the assertion by the Fish and Wildlife Service that a culvert provides a direct connection between this unlined landfill, accepting some hazardous materials, and surrounding water bodies that are home to the region's commercial fisheries and 340 species of birds at the Bayou Sauvage National Wildlife Refuge? Please respond to each of the points in that letter, particularly the concern that placing construction and demolition debris in an unlined landfill located in a wetland could result in leaching and resultant persistent contamination of groundwater, surface water, and adjacent wetland habitats.

Response. Prior to the use of this site, the Corps conducted a jurisdictional determination on the property. It was determined that the project footprint consisted of borrow pits which had hydrologic connection to the Maxent Canal through an exist-

ing culvert. This hydrologic connection was severed prior to any emergency dumping.

The Fish and Wildlife Service's concern about placing construction and demolition debris at this site will be addressed, since the landfill will have a clay liner that is approximately 10 feet thick. The thickness of this clay liner exceeds the standards required by LDEQ, which is responsible for establishing construction standards for landfills in the State of Louisiana. LDEQ also regulates the operation of landfills. LDEQ has determined that the liner at the Chef Menteur landfill will prevent any leaching of contaminants into adjacent waters, including groundwater. In a letter dated May 19, 2006, the Fish and Wildlife Service stated that if the landfill is properly lined, it should be authorized to receive construction and demolition debris, as well as vegetative debris.

Question 6a. Conflict of Interest at Chef Menteur.—How did the Army Corps protect against a conflict of interest being both the "applicant" so to speak as being a potential user of the Chef Menteur site as well as the permitting Agency prior to issuing your emergency authorization?

Response. There is no conflict of interest. The roles and responsibilities of permit applicants and users are substantially different. Waste Management of Louisiana, LLC is the permit applicant. If the Chef Menteur landfill is not available, then alternative landfills would have to be used by the Corps for the disposal of debris during the recovery effort. The Corps is reviewing the permit application for the Chef Menteur landfill under all applicable laws, regulations, and guidance, as we would any other proposal that requires Department of the Army authorization. The affiliation of any potential users of this landfill has no bearing on the Corps' review of the permit application. There are no requirements or restrictions on the applicant to only accept debris from the Corps. The Corps office that deals with debris removal is separate from the Corps office working on the permitting issues. The Recovery Field Office and the New Orleans District's Regulatory Branch have different and independent responsibilities.

Question 6b. Did you consult with EPA, or ask them to review or participate in your decision to waive this permitting requirement to fulfill their oversight responsibilities under section 404 or to avoid the appearance or the reality of conflict of interest.

Response. We did not waive permitting requirements. We issued an emergency authorization and we are presently evaluating a permit application to maintain the work for the construction of the landfill. This emergency authorization satisfies section 404 permit requirements until the standard permit process can be completed. In this case, the authority to issue a section 404 permit lies solely with the Corps. The emergency authorization was necessary to facilitate recovery from the disaster.

EPA has delegated its authority to regulate the operation of landfills in Louisiana to LDEQ. As a result, there was no need to consult directly with EPA on the emergency authorization. We are coordinating with EPA on the final permit application.

Question 7. What analysis of environmental impacts at the Chef Menteur site has the Army Corps conducted since April, and what have you found? What is your timeline for completion of this evaluation?

Response. On April 28, 2006, a public notice was issued to solicit comments on the section 404 permit, which would authorize the construction of the landfill. The comment period was 30 days. All comments received in response to the public notice, including the comments from the Fish and Wildlife Service, were forwarded to the applicant for his response or rebuttal. The applicant submitted his responses and we are now reviewing his submittal.

On May 24, 2006, a site visit was made with EPA to assess habitat quality.

We are currently performing an environmental assessment and public interest review of the project. We anticipate completing our evaluation and making a final decision in 90 to 120 days. However, our decision on the permit is contingent on LDEQ completing its environmental assessment for the operation of the landfill.

Question 8. Given that Mayor Nagin has decided not to renew or extend his Executive order regarding his temporary suspension of the Comprehensive Zoning Ordinance, what is the status of the Army Corps 404 permit process? Do you plan to suspend your activities on this permit until the necessary local permits are received? If not, why not?

Response. Once the City withdrew their authorization, Waste Management could no longer operate the landfill. As a result, there was no need for us to suspend our emergency authorization. We will continue to evaluate the permit application, to make a decision on whether to issue or deny the permit. If local authorization for

the landfill is granted in the future, then a Corps permit decision would have been made.

Question 9a. In an article by Gordon Russell, April 14, 2006, in The Times Picayune, entitled Storm debris landfill is OK'd, the following statement appeared. "Asked whether the Corps had requested that DEQ approve a new facility, (Sid Falk, identified as the debris manager for the Army Corps) Falk said, "Absolutely". Did the Army Corps, either officially or unofficially request that the Louisiana DEQ approve the Chef Menteur landfill for use, and if not, please explain the statement in this article.

Response. The Corps Louisiana Recovery Field Office did ask LA DEQ, in the interest of efficiency to permit additional landfills in the New Orleans area. Debris removal operations had been constrained by daily quantity limits imposed on the Gentilly landfill for receipt of construction and demolition (C&D) debris. We were also seeking alternatives for the receipt of asbestos containing waste material (ACWM) in closer proximity to demolition operations in the city of New Orleans. The only alternative receptors for C&D and ACWM in the New Orleans vicinity are the Hwy 90 and Riverbirch landfills, respectively, located in west Jefferson Parish, which is more distant from debris removal and demolition operations, entails traversing heavily populated communities and crossing the Mississippi River via the Huey P. Long Bridge, which is a marginally adequate roadway for debris hauling equipment. There have been several incidents of truck rollovers at the traffic circle at the base of the bridge on the west bank. The current estimate of demolition numbers in the City of New Orleans is 15,000 structures. Approximately 5,000 structures have been identified by the city for demolition, which represent hazards to public safety. The city has received another 2,000 property owner requests for demolition. There are approximately 80,000 structures in the city that were damaged by flooding. It is highly speculative what number of these structures will eventually be identified for demolition. The limited availability of landfills poses the risk of operational failure if, for any reason, the sites become unavailable.

Question 9b. How is the Corps preventing a conflict of interest as both the permitting Agency and a party interested in the future use of the landfill as a debris disposal site?

Response. There is no conflict of interest. The Corps is neither a proponent nor opponent of any permit proposal. The Corps is reviewing the Chef Menteur landfill site under all applicable laws, regulations, and guidance, as we would any other proposal that requires Department of the Army authorization. The affiliation of any future users of this landfill has no bearing on the Corps' review of the permit application. There are no requirements or restrictions on the landfill operator to only accept debris from the Corps. The Corps office that deals with debris removal is separate from the Corps office working on the permitting issues. The Recovery Field Office and the New Orleans District's Regulatory Branch have different and independent responsibilities.

Question 10. During the hearing, Senator Inhofe asked a question regarding the responsibility for removal of watery debris. Mr. Shea answered that FEMA is responsible based on the Stafford Act. Section 407 of the Stafford Act states: "The President, whenever he determines it to be in the public interest, is authorized—(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and (2) to make grants to any State or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters." Under this authority, it seems clear that the President could designate any Federal Agency to take the lead for debris removal. Do you agree?

Response. Yes, the President could designate any Federal Agency to take the lead for debris removal.

Question 11. Do you believe that there should be an enhanced Federal role in major disasters or in catastrophic events for debris clean up that creates an authority for the Federal government to conduct debris clean up without the request of a local government?

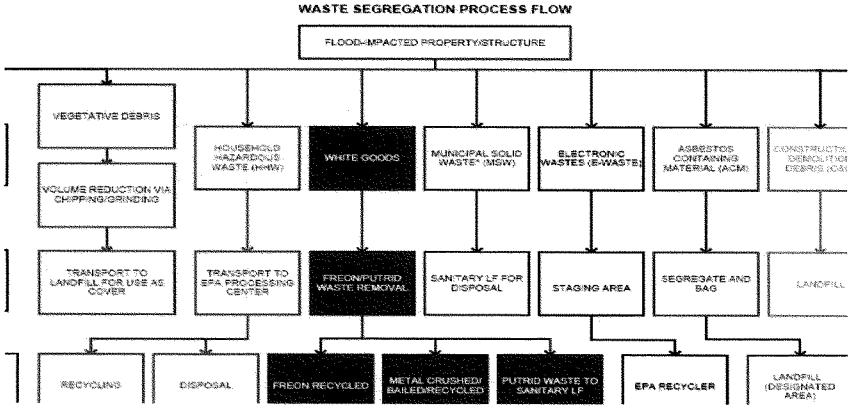
Response. No. The local government must be included as a partner in the response operations. All levels of local government will and do play critical roles in debris operations. Cooperation is key to an efficient and effective recovery. A Federal take-over would create a hostile environment that would only create more tension in an already tense environment and have a negative impact on both the responders and victims.

Question 12. Please describe whether Corps personnel and contractors are segregating waste or if homeowners responsible for placement of their debris at the curb are performing this segregation. Please elaborate on your quality control mechanisms.

Response. From the inception of the response, USACE identified numerous waste streams requiring segregation, collection, processing, staging, recycling, and disposal in order to maintain compliance. These waste streams include the following:

- Municipal solid waste
- Vegetative Debris
- Construction and Demolition Debris
- Small motorized Equipment
- Asbestos
- Electronic Waste
- Household Hazardous Waste (HHW)
- White Goods
- Tires

The following flow diagram illustrates waste stream management USACE incorporated for the response.



Waste is being separated by both the homeowners and Corps personnel/contractors.

j. Homeowners had the option of placing household hazardous waste at curbside and having either a USEPA or Mississippi Department of Environmental Quality (MDEQ) hazardous materials (waste) pickup crew pick up the waste. Likewise, if Corps personnel or contractors encounter hazardous materials (waste) in the process of debris removal or demolition, they could likewise move the hazardous materials (waste) curbside for USEPA/MDEQ pickup. In instances where hazardous materials (waste) were encountered and the situation was such that the Corps or Corps contractors needed assistance in managing the material during actual debris pickup or demolition, the USEPA / MDEQ was available to provide onsite assistance. One example was an outbuilding that had collapsed on the contents, which happened to be swimming pool chemicals. The USEPA provided onsite assistance during the demolition of this structure to help avoid a release and to be onsite to respond to a release should that have occurred.

k. Waste is further segregated at the Corps temporary debris reduction sites (TDRS). Vegetative debris is segregated from construction/demolition debris, white goods, electronics, and any household hazardous waste that might have made it to the TDRS. The various waste streams are managed in a manner consistent with State and Federal regulations and guidance.

l. Corps QA personnel are involved in debris management from the actual location where the debris is picked up to management of the TDRS facilities where the waste is further processed, segregated, and sent for final disposal or reuse. USACE provides hundreds of Quality Assurance representatives and the USACE contractor provides hundreds of Quality Control representatives in order to maintain debris management standards and requirements throughout the response. In addition to USACE and USACE contractors, there are numerous Agency representatives from US EPA, State DEQ, CDC, NIOSH, OSHA, FEMA, etc who provide operational, regulatory feedback concerning daily debris management, from cradle to grave. Correc-

tive measures result from this robust, daily, and wide spread visibility for debris management.

m. USEPA/MDEQ had QA inspectors that visited the waste generation points, the TDRS facilities, and the final disposal sites to ensure compliance with State and Federal regulations. Meetings were usually held weekly between these regulatory personnel and Corps debris environmental personnel. There was frequent contact by phone and e-mail between the Corps and EPA/MDEQ.

n. USACE Vicksburg District augmented debris/waste management QA by involving MVK personnel with specific training, experience, and expertise in waste management. These personnel provided day-to-day technical assistance to the debris mission to help ensure all waste streams were managed in a manner consistent with State and/or Federal regulations and guidance.

Question 13. Do you agree that it would be a step backwards if the Federal government returned to the ad hoc, disaster-by-disaster approach to providing disaster aid to States, localities, and individuals that existed before the Stafford Act?

Response. Yes, the National Response Plan works and returning to a "ad hoc" approach would be counter-productive.

Question 14a. Until Hurricane Katrina, there were a very limited number of times during which the Congress diverted from normal procedures under the Stafford Act in the wake of a disaster. After Hurricanes Katrina and Rita, the Congress has enacted a significant number of legislative changes to the Stafford Act that modify the manner in which disaster assistance is provided, and many more proposals are pending. This was a catastrophic disaster worthy of special action, but it is unlikely to be the last of its kind, particularly with the changes we can expect as climate change occurs. What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. If a third category of disaster is created, recommend that the threshold for declaring a catastrophic event be very clearly defined so that this category is not misused.

Question 14b. What specific provisions of the Stafford Act would you recommend modifying in such a category?

Response. For a catastrophic event, there should be a relaxation of rules related to debris eligibility and there should also be a relaxation of cost sharing requirements for the communities that are already devastated.

Question 15a. The Stafford Act, and the Nation's disaster response, is focused on preparedness and response. There is very little long-term recovery authority in the Stafford Act. Do you believe there is a role for the Federal government in this area that should be more developed?

Response. Many departments have programs and authorities that can assist with long term recovery. It would be helpful to have a mechanism defined for organizing and coordinating these authorities and programs for major and catastrophic disasters.

Question 15b. Is there currently authority for the Federal Government to perform long-term recovery operations?

Response. Many agencies already have authorities that can contribute to long-term recovery efforts.

Question 15c. Do you believe that any Federal role should be limited to long-term recovery from catastrophic events?

Response. The role of the Federal Government should be scalable, depending upon the magnitude of the event and the extent of damage.

Question 16. During the hearing, you agreed to provide information regarding debris removal contracts for the record. Please provide a breakdown of the debris removal contracts let during Hurricane Katrina, who received them, what the dollar amounts were, who the prime contractors subcontracted out to and what accounts for the difference in dollar per pound removal in the original contract and the final subcontractor.

Response. There are currently five contracts awarded to support the physical pick-up of debris within Louisiana and there were 606 subcontractors who are or have supported this mission: Contractor: Ashbritt, Inc., Dollars obligated to date: $28,253,000; Contractor: ECC Operating Services, Dollars obligated to date: $421,000,000; Contractor: CERES Environmental Services, Dollars obligated to date: $384,000,000; Contractor: Phillips & Jordan, Inc., Dollars obligated to date: $496,000,000.

In Mississippi, two contracts were utilized for Hurricane Katrina. The initial contract was the ACI contract, Contract No. DACW29–03–0009–AshBritt, Inc. This was an IDIQ contract. Vicksburg District could utilize up to $45M in contract capacity. Total obligated to date under the ACI contract was $42,740,000.00.

Contract W912P8 0905–D–0025, awarded to AshBritt, Inc. is an IDIQ contract. Contract capacity is $1B. To date we have obligated $720,204,076.61.

Large scale debris operations require literally thousands of pieces of equipment and multiple crews. The only way to rapidly assemble these resources is by bringing together numerous subcontractors. The Corps is not only paying for the removal of the debris, but also is paying the Prime Contractors to establish the management structure to rapidly assemble vast numbers of personnel and equipment to accomplish the missions over an extremely large geographical area.

RESPONSES BY DON T. RILEY TO ADDITIONAL QUESTIONS FROM SENATOR CLINTON

Question 1. FEMA estimated at the end of June that Hurricanes Katrina and Rita would generate 33 million cubic yards of debris including curbside, private property, and demolition debris. Those numbers were generated using estimates of 15,000 homes to be demolished, and current estimates have grown to include about 22,000 homes to be demolished. About 1100 demolitions have been conducted to date.

Under the National Response Plan (NRP), Emergency Support Function No. 3, the Army Corps of Engineers is delegated the responsibility for debris removal. The Army Corps has the responsibility of removing debris from public rights of way. In a declared emergency under the Stafford Act, local governments decide if they want to pick-up debris through their own contracting and be reimbursed through the Stafford Act or if they will request that the Army Corps perform this mission for them. Local governments must grant permission for the Army Corps to enter private property to remove debris in cases where the owner is not available.

The Army Corps cites the slow pace of residents returning, the identification of applicable asbestos regulations and permitted landfills located nearby, and limitations on the amount of debris certain landfills may accept as hurdles to expediting debris clean-up.

Debris clean-up has been identified as a hold-up in Katrina recovery. Is the Nation's debris clean-up and handling mission up to par, what changes, if any, need to be made in the Stafford Act/National Response Plan (NRP)/Agency activities?

Response. The National Response Plan and Stafford Act are up to par as it relates to the debris mission and USACE has no recommendations at this time for changes. The system successfully brought together Federal, State and local governments to collectively manage the removal of debris. The job did seem overwhelming at times, given that the scope of the damage from Hurricanes Katrina and Rita was unprecedented, with some 90,000 square miles of land significantly impacted (an area larger than Great Britain) and the storms generating enormous volumes of debris. Over 120M cubic yards of debris eligible for Federal assistance was generated by the winds and coastal surges. That is nearly six times more debris generated by Hurricane Andrew.

Tremendous progress has been made in removing debris over the past year. The Corps is responsible for the removal and disposal of debris in 54 counties in 4 States totaling 57M cubic yards. In first 7 months the Corps removed over 45M cubic yards of this debris (approximately 80 percent). In comparison, the Corps was responsible for the removal of 15M cubic yards of debris after Hurricane Andrew in the first 8 months after the storm made landfall.

Question 2. I would like the Army Corps and FEMA to provide me a breakdown of the debris removal contracts let during Hurricane Katrina including who or what entities got what dollar amounts, to whom did the prime contractors subcontract out for and for how much, and what accounts for the difference in dollar per pound removal in the original contract and the final subcontract. I think we must get a handle on debris removal contracts.

Response. There are currently five contracts awarded to support the physical pick-up of debris within Louisiana and there were 606 subcontractors who are or have supported this mission: Contractor: Ashbritt, Inc., Dollars obligated to date: $28,253,000; Contractor: ECC Operating Services, Dollars obligated to date: $421,000,000; Contractor: CERES Environmental Services, Dollars obligated to date: $384,000,000; Contractor: Phillips & Jordan, Inc., Dollars obligated to date: $496,000,000.

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Large scale debris operations require literally 1000's of pieces of equipment and multiple crews. The only way to rapidly assemble these resources is by bringing together numerous subcontractors. The Corps is not only paying for the removal of the debris, but also is paying the Prime Contractors to establish the management structure to rapidly assemble vast numbers of personnel and equipment to accomplish the missions over an extremely large geographical area.

RESPONSES BY DON T. RILEY TO ADDITIONAL QUESTIONS FROM SENATOR VITTER

Question 1. The Corps is the lead Agency on debris removal. What is the status of hurricane debris removal (percentage completion)? When do you expect to be finished with this work?

Response. The status of the hurricane debris removal (percentage completion) is depicted in the attached presentation.

It is difficult to offer any projections of when the work might be complete since there are many determining factors over which we do not have control.

Question 2. Could you compare the debris policy exercised in Mississippi to that applied in Louisiana? Is Mississippi utilizing landfills that are unlined to dispose of lead and asbestos, etc?

Response. While implementation of Federal, state, and local requirements can vary from state to state, the USACE debris policies are the same irrespective of location. Wastes must be segregated, collected, transported, recycled, treated, and disposed of in conformance with applicable Federal, State, and local requirements.

Lined landfills (Type I, II) are designed and constructed to capture leachate generated from the breakdown of wastes. USACE disposed of wastes requiring lined landfills where appropriate. For example, USACE disposed of municipal solid waste in a Type I, II lined landfill while acting under direct Federal assistance to DHS FEMA and for the City of New Orleans. Additionally, US EPA used Subtitle C landfills with liners and monitoring provisions to manage disposition of hazardous wastes, as required.

The construction and demolition (C&D) waste stream resulting from demolitions or identified from curb-side collection can be disposed of in Type III landfills, which are equipped with low permeability soils at the landfill base that can minimize release of leachate, if any. The standards for this base layer are less than that provided by a liner as C&D media do not break down creating leachate concerns for the subsurface as are found in Type I landfills.

Pre and post Katrina solid waste regulations do not require asbestos containing materials (ACM) be disposed of in a lined landfill because asbestos fibers do not break down and create leachate. However, many Type I, II landfills that are permitted to accept ACM are lined to address leachate concerns from other sources.

The sources of lead in C&D waste streams may include lead-based paint, lead pipes, lead in solder, etc. Prior to hurricane recovery, solid waste regulations in the State of MS and LA provided for lead-based paint adhered to C&D to be classified as a C&D waste stream. Thus, C&D debris with adhered lead-based paint can be appropriately disposed of in a Type III landfill. For clarification, USACE was not tasked with removal of lead-based paint chips per se. Such a response would require analysis of paint chips for lead to determine appropriate waste classifications, treatment requirements, if any, prior to disposal. The lead contained in C&D media subject to disposal in Type III landfills is not expected to be chemically altered enough to create leachate concerns.

Though I would have liked to have seen more parishes receive the extension of the 100 percent Federal share for debris removal, I do appreciate that the President extended the 100 percent cost share for many of the hardest hit parishes. Now, almost a year later, we have already hauled away more than 25 times more than the debris in New York after September 11, but we still have a long way to go. Right after the storm, local government leaders were told one thing and then another on how debris removal would work. First, they were told that, if they chose the Corps for the debris work, 100 percent of the cost share would last until the work was done. Then, FEMA corrected that to say that was not the case and that the cost share for the Corps work would be the same as if the parishes had chosen their own contractors. As you might guess, many local leaders chose the Corps, even though they believe the contractors of their choice might have been cheaper or faster with the debris removal.

Question 3. In the future, how will the Corps coordinate better with FEMA to ensure this sort of confusion does not happen in future disaster? Clearly, confusion of this sort only delayed vital debris removal work.

Response. There was a great deal of confusion over cost share, however USACE has no role in setting, changing, or communicating cost share information to the state and local governments. USACE will continue to train response personnel to direct all cost share questions to a FEMA representative.

Question 4. I understand there are a few landfill facilities used for disposal even though the USACE, EPA and FEMA knew that the facility did not have a Federal Clean Water Act permit for discharge of contaminated stormwater or a 404 permit required by USACE regulations as well as other environmental concerns. What steps has the Corps taken to ensure environmental compliance and safety?

Response. MVN has issued a Cease and Desist (C&D) order to Hamps Landfill, which is located adjacent to Old Gentilly Landfill. Hamps is adhering to the terms and conditions of the C&D. We are presently working with Louisiana Department of Environmental Quality to resolve the legal issues. We know of no other landfill that is operating without a Department of the Army permit.

STATEMENT OF DEBORAH Y. DIETRICH, DIRECTOR, OFFICE OF EMERGENCY MANAGEMENT, OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE, U.S. ENVIRONMENTAL PROTECTION AGENCY

Good morning Mr. Chairman and members of the committee. I am Deborah Dietrich, Director of the Office of Emergency Management in the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency. Thank you for the opportunity to discuss EPA's role under the National Response Plan (NRP) and Agency response efforts under the Stafford Act following Hurricane Katrina.

The magnitude of the damage from Hurricane Katrina presented significant challenges for EPA and our partners at the Federal, State and local levels. EPA has a long standing and positive relationship with FEMA, the U.S. Army Corps of Engineers (USACE), the U.S. Coast Guard and other Federal agencies, as well as our partners in State and local government. As with other Federal agencies, our involvement is facilitated through the NRP. While there is always room for improvement, we believe that these relationships provided the basis for an effective response to the most destructive natural disaster in the history of the United States.

Under the NRP, EPA is the Coordinator and Primary Agency for Emergency Support Function (ESF) No. 10–Oil and Hazardous Materials Response. Our primary activities under this support function include: efforts to detect, identify, contain, clean up or dispose of oil or hazardous materials; removal of drums and other bulk containers; collection of household hazardous waste; monitoring of debris disposal; air and water quality monitoring and sampling; and protection of natural resources. EPA is also a Support Agency for a number of other Emergency Support Functions.

For example, under ESF No. 3–Public Works and Engineering, which addresses solid waste debris removal, EPA provides necessary support to the U.S. Army Corps of Engineers (USACE) by assisting in the location of disposal sites, providing safety guidance for areas affected by hazardous materials, assisting in the management of contaminated debris, and by coordinating or providing assessments, data, expertise, tecludeal assistance, and monitoring.

In response to Gulf Coast hurricanes, and in coordination with our partners, EPA performed a wide variety of tasks including: response to more than 70 emergency situations including hazardous materials releases and oil spills; assessment of more than 4,000 water and wastewater systems to determine viability after the storm; environmental monitoring and sampling of water, air, floodwater and residual sediment resulting in more than 400,000 analyses. EPA conducted extensive outreach through the media and the Agency Web site and distributed millions of flyers to alert the public and communities about potential risk and methods to address handling of potentially contaminated debris. EPA also responded to FEMA's request for assistance and rescued approximately 800 evacuees. Over the months since Katrina struck the Gulf Coast, more than 1,600 EPA employees from across the country participated in the response. At the height of activities, approximately 245 EPA employees and 1,400 contractors and support personnel were deployed.

Removal and proper disposal of the unprecedented amount of debris in the affected areas has been a major undertaking since the beginning of the response. While the USACE has the federal lead responsibility for debris removal under the NRP, EPA has worked closely with USACE, FEMA, and State and local governments to assist in debris removal activities. For example, EPA assisted the States in developing guidance regarding demolition of structurally unsound buildings as

well as guidance for debris burning. Along with FEMA and the USAGE, EPA provided assistance to the States as they developed their debris removal plans.

EPA collected more than 4 million unsecured or abandoned containers of potentially hazardous wastes and facilitated the recycling of more than 630,000 electronic goods. We have also assisted in the proper handling and recycling of more than 380,000 large appliances. These collections included curbside pick-up as well as the operation of emergency collection sites.

The management and disposal of non-hazardous debris is a State and local responsibility. However, at the request of the States of Louisiana and Mississippi, EPA assigned staff to provide support by visiting debris disposal sites, and observing waste handling, including sorting and management practices at emergency disposal sites. Observations of waste handling practices were reported to State and local authorities for any appropriate follow-up action.

EPA's mission in Alabama and Mississippi is now complete and any remaining activities have been transitioned to the States. In Louisiana, EPA activities are winding down and are now focused on the collection and disposal of household hazardous waste, landfill monitoring, and environmental sampling. These efforts are generally occurring in the St. Bernard and Orleans parishes. Work is expected to be completed in October 2006.

At EPA, following the events of September 11, 2001, we introduced an Agency wide National Approach to Response designed to improve our readiness for incidents of national significance. As part of this initiative, we provided an ICS training and exercise program for emergency response personnel and others, which allowed our personnel to organize into Unified Command with the U.S. Coast Guard and States very early in our response under ESF–No. 10. The Agency also implemented a response support corps (to include staff beyond our responders) allowing us to identify staff in advance who could use their skills and expertise in the response. In the area of information technology, improvements to systems regarding formatting, review and storage of laboratory data facilitated the process we used to analyze data quickly so that information about potential risk can be provided to the public and responders. Overall, we believe this approach contributed significantly to our Katrina response efforts.

CONCLUSION

The response to Hurricane Katrina has clearly necessitated strong cooperation among the Federal, State and local government agencies. We believe that the Stafford Act, the National Response Plan and the preparedness activities under the National Incident Management System contributed positively to our ability to respond to Hurricane Katrina. EPA has recently participated in the review of the NRP and we will continue to work with our Federal, State and local partners to address the Nation's preparedness for future catastrophic events.

RESPONSES BY DEBORAH Y. DIETRICH TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please discuss the assignment of responsibility for water borne debris and spills in disasters such as Hurricane Katrina. What is the role of the EPA, the Coast Guard, or the Corps of Engineers?

Response. *Water borne debris.*—In accordance with the National Response Plan (NRP), the Federal Emergency Management Agency (FEMA) has the overall responsibility of mission assigning Federal agencies to assist with the response under a Stafford Act declaration. The NRP assigns primary responsibility for managing debris to the U.S. Army Corps of Engineers (USACE) and FEMA, including waterborne debris. USACE provides direct field assistance in removing debris, while FEMA provides financial assistance to applicants who otherwise have the legal authority to remove the debris. USACE may remove water borne debris with its own resources or, if needed, request that other supporting Federal agencies to assist. (Some support agencies, such as the U.S. Department of Agriculture's Natural Resources Conservation Service also have direct statutory responsibility for providing financial assistance for the removal of certain water borne debris.) USACE may call upon the U.S. Coast Guard (USCG), for example, to assist with the removal of marine debris and wrecks from waterways and navigable channels. During Hurricane Katrina, the U.S. Navy's Supervisor of Salvage also assisted with vessel salvage efforts. The Environmental Protection Agency (EPA) typically does not assist in the actual removal of non-hazardous marine debris, but may provide technical advice and assistance to other Federal agencies as well as to state and local governments regarding appropriate debris management.

Waterborne spills.—Under the NRP, FEMA is responsible for mission assigning Federal agencies to assist with the response under a Stafford Act declaration. The NRP assigns primary responsibility for cleaning up oil spills and discharges of hazardous materials into the environment to EPA for the inland zone and to USCG for the coastal zone. EPA and USCG may call upon their support agencies (such as the National Oceanic and Atmospheric Administration) for assistance. Under this authority, during Hurricane Katrina, both EPA and USCG removed hazardous materials (e.g., drums, tanks) from inland and coastal waterways.

Question 2a. In the event of a terrorist attack involving a "dirty bomb" or nuclear device, what agencies would be involved in the cleanup of contaminated debris? Who is in charge?

Response. Under the NRP, the Department of Homeland Security (DHS) would declare an incident involving a dirty bomb or nuclear device as an Incident of National Significance (INS). It also is likely that the President would issue a Stafford Act declaration to provide Federal assistance to State and local governments. Under this scenario, DHS would coordinate the overall Federal response and appoint a Federal Coordinating Official (FCO), on behalf of the President, to work with the State Coordinating Official (SCO) to identify requirements and then coordinate the Federal support activities. Under the Nuclear/Radiological Incident Annex of the NRP, different Federal agencies are assigned as the "Coordinating Agency" for different types of nuclear/radiological events. The Coordinating Agency, in general, assists DHS in managing the overall radiological aspects of the response.

For radiological terrorist incidents, the Coordinating Agency would be (1) The Department of Defense (DoD) or Department of Energy (DOE) for terrorist incidents involving their facilities, materials, or weapons; (2) The Nuclear Regulatory Commission (NRC) for terrorist incidents involving material or facilities licensed by the NRC or an Agreement State; or (3) The DOE, for terrorist incidents not covered by the categories above. For this category, the role of Coordinating Agency transitions to EPA for the environmental cleanup phase.

For a dirty bomb or nuclear device incident falling under category 3, DOE would first assist DHS and FEMA in coordinating the overall Federal radiological response, then the Coordinating Agency role would transition to EPA for the cleanup phase. During the cleanup phase, EPA would continue to work with the assistance of NRP agencies, including DOE. EPA would also respond in the initial phase, but in a support role to DOE, DHS, and FEMA. The NRP assigns responsibility for managing contaminated debris, in particular, to the USACE for providing direct field assistance, and to FEMA for providing financial assistance. It is expected that both DOE and EPA would work closely with USACE and FEMA to appropriately manage contaminated debris. USACE and FEMA could also request the help of other debris management support agencies under the NRP as needed.

Question 2b. Are the standard procedures of the NRP going to be deployed, or will other procedures be used?

Response. The NRP is always in effect and it applies to all incidents requiring a coordinated Federal response; however, the implementation of NRP coordination mechanisms is flexible and scalable. DoD, DOE, and NRC may have more detailed standard operating procedures that would apply specifically to radiological terrorism incidents involving their materials and facilities.

Question 3a. What revisions to the Stafford Act would you recommend in light of our experience after a catastrophic disaster like Katrina? Are long-term recovery policies and authorities sufficient?

Response. EPA has not developed a position on Stafford Act revisions nor conducted an analysis of existing recovery policies.

Question 3b. What are the limits and strengths of the existing recovery polices?

Response. EPA has not developed a position on Stafford Act revisions nor conducted an analysis of existing recovery policies.

RESPONSES BY DEBORAH Y. DIETRICH TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. In response to some questions I posed to the Army Corps in a letter regarding the pace of debris clean-up, the Corps identified the following hurdles: the slow pace of residents returning, asbestos regulations, proximity of landfills, and limits on theamount of debris certain landfills may accept. What is EPA doing to eliminate those hurdles for the Gulf Coast and to prevent them from becoming hurdles in future disasters?

Response. The U.S. Environmental Protection Agency (EPA) took reasonable steps to address environmental concerns in the aftermath of Hurricane Katrina. Where State agencies felt that flexibility in the application of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) might be helpful, EPA exercised that enforcement discretion by providing No Action Assurances in both Louisiana and Mississippi to ensure that procedural provisions of these regulations would not impede progress while still protecting the environment. While the process for No Action Assurances required coordination and collection of information from the U.S. Army Corps of Engineers (USACE) and States, it was conducted at the same time that other policies and procedures were being established by State and local authorities including those addressing access to private property. Major demolition activities were not ready to begin prior to the issuance of the No Action Assurances.

The Louisiana Department of Environmental Quality (LDEQ is the permitting authority for construction and demolition (C&D) debris landfills. Early in the response operation, in response to questions from the Federal Emergency Management Agency (FEMA) and the USACE, LDEQ determined that there was sufficient capacity for the various debris streams resulting from the damage caused by Hurricanes Katrina and Rita. This information was provided to the USACE debris coordinator during the debris coordination meetings that have been occurring on at least a weekly basis since September 2005. These meetings involve various parties but principally, FEMA, State Debris Coordinator, USACE, LDEQ, EPA, and a variety of other representatives (Parish and local). Landfill proximity and capacity issues have been clearly articulated. In January 2006, FEMA issued a letter to the USACE limiting the amount of C&D waste hauled to the Gentilly landfill. LDEQ, in cooperation with EPA and USACE, performed a comprehensive analysis of the issues affecting the Gentilly landfill's capacity to accept C&D waste and found considerable additional capacity in the landfill. LDEQ has assured EPA and FEMA that, based on full utilization of the Gentilly landfill, sufficient capacity exists to handle the hurricane related debris.

In addition to coordination with the USACE during Hurricane Katrina response efforts, EPA and USACE have since met on several occasions to discuss future debris management operations. EPA will continue this coordination with USACE in an effort to do everything possible to achieve timely and efficient operations in future responses.

Question 2. How many people do the EPA and the state of Louisiana have dedicated to oversight of debris separation activities at landfills or elsewhere in the state, how often and for what period of time are they posted at individual landfills and what type of verification has EPA conducted of state monitoring procedures?

Response. EPA has had as many as four individuals monitoring 13 landfills twice each week. As progress is made and the number of landfills receiving C&D debris decreases, the level of EPA's staff will reflect this progress. EPA's actions are in support of the LDEQ's hurricane response efforts. To date, EPA has conducted more than 500 landfill observation visits. In addition to its normal landfill oversight, LDEQ maintains a constant presence at five of the higher profile landfills receiving C&D debris.

Question 3. How is EPA exercising its authority under section 404(c) of the Clean Water Act to review the Army Corps wetlands permitting action with regard to the Chef Menteur site—for example, were you involved prior to the issuance of the emergency authorization to begin work, what extra oversight have you dedicated to debris sorting at the site, has the EPA considered vetoing the permit, and what is your involvement in the ongoing permitting action?

Response. As described above, EPA has conducted site observations at the Chef Menteur site twice weekly, and LDEQ has an individual present at the site each day. As of the week of August 14, 2006, the Chef Menteur site stopped receiving C&D debris.

It is our understanding that the emergency section 404 authorization for the Chef Menteur site is covered under New Orleans District General Permit 20 (NOD–20) "Emergency Permit Procedures for the States of Louisiana and Mississippi within the Boundaries of the Mississippi Valley Division." Therefore, EPA Region 6 did not have an opportunity to review a specific emergency 404 authorization for the Chef Menteur site in advance. Region 6 staff did review the draft 404 permit, proposed by USACE on April 28, 2006, and visited the site on May 24, 2006. The Region 6 permit reviewer transmitted comments to USACE on May 30, 2006, recommending that a liner (clay or other similar material) be considered. There reviewer also questioned the applicant's plans for management of stormwater runoff. These comments did not rise to the level that would trigger a formal objection to the proposed 404 permit. Region 6 staff discussed the liner concern with LDEQ staff on June 28,

2006. LDEQ staff provided information regarding the existence of a natural clay liner at the site (boring samples taken in 1995 indicated the area had an average of 10 feet of clay soils). As a result of this discussion, Region 6 sent a June 30, 2006, communication to USACE stating that a liner was not required. EPA's concerns about stormwater runoff have been addressed by the requirements of LDEQ's Fifth Amended Declaration of Emergency and Administrative Order, dated March 31, 2006, which established effluent limitations and monitoring requirements for discharges of landfill wastewater from a construction/demolition debris and woodwaste landfill and for non-contaminated stormwater discharges from such landfills.

Question 4. Can you describe EPA's analysis and conclusions, if complete, regarding each of the issues raised in the Fish and Wildlife Service letter raising concerns about the Chef Menteur site, particularly the concern that placing construction and demolition debris in an unlined landfill located in a wetland could result in leaching and resultant persistent contamination of groundwater, surface water, and adjacent wetland habitats.

Response. Under the Clean Water Act, as the section 404 permitting authority, USACE is responsible for considering and responding to comments by other Federal agencies (as well as the public, in general) on their proposed permits. Therefore, it is not EPA's practice to conduct analysis on the issues raised by other agencies (such as the Fish and Wildlife Service) on section 404 permits proposed by USACE. EPA's response to Question 3 above provides additional information related to this issue.

Question 5. I have been informed that your Agency reviewed the draft permit for the Chef Netherlands fill in May, provided comments, and that the Agency's issues were resolved. Yet, the Fish and Wildlife Service believes that use of this landfill could result in "persistent contamination of groundwater, surface water, and wetlands." Please describe what your Agency's concerns were, how they are the same or different than those of the Fish and Wildlife Service, and how they were resolved.

Response. Both EPA and the U.S. Fish and Wildlife Service commented on the need for a liner. Comments associated with EPA's review of the draft permit for the Chef Menteur landfill were discussed in our response to Question 3 above.

Question 6a. The EPA has issued a "no action assurance" letter for the state of Louisiana with regard to asbestos handling requirements. Can you describe which element of asbestos regulations are waived by this letter?

Response. On February 24, 2006, EPA agreed to grant additional flexibility to Louisiana based on the issues associated with response efforts to Hurricanes Katrina and Rita. More specifically, EPA reiterated that on February 3, 2006, EPA issued a No Action Assurance for the asbestos NESHAP, 40 CFR Part 61, Subpart M, to allow residences that are subject to a government-issued demolition order based on the residence being (1) structurally unsound but not necessarily in danger of imminent collapse, or (2) moved off of its foundation, to be treated as though the demolition order is based on a determination that the house is structurally unsound and in danger of imminent collapse.

In addition, EPA further extended the February 3, 2006, No Action Assurance to residences that are subject to government-issued demolition orders because they are uninhabitable for other environmental reasons (e.g., from excessive flood damage). Under this No Action Assurance, as under the February 3, 2006, action, such residences maybe treated as though they are subject to government-issued demolition orders based on a determination that they are structurally unsound and in danger of imminent collapse and thus subject to section 61.145(a)(3) of the asbestos NESHAP regulation. Also, EPA extended the applicability of this discretion to include more than the LDEQ and the USACE, adding that it also applies to local governments or persons operating at their direction. These flexibilities are restricted to residences affected by Hurricanes Katrina and Rita. It does not apply to residences with greater than four units and is only in effect until February 3, 2007.

Question 6b. Which elements still apply?

Response. Such residences as mentioned above are subject to the requirements of 40 C.F.R. section 61.145(a)(3) which requires that such sources comply with 61.145(b)(1), (b)(2), (b)(3)(iii), (b)(4) [except (b)(4)(viii)], (b)(5) and)(4) through (c)(9). Generally, these sections require notice to proper authorities of the demolitions, updates to the notices as the situation may change, updates as early as possible, detailed information about the demolitions, (e.g., location, description of the process) and adequate wetting of the structures to minimize emissions. Proper disposal, consisting of all the elements in 40 C.F.R. Section 61.150 and 61.154, including no visible emissions or other, alternative barriers to access by the public and other recordkeeping, is also required.

Question 6c. How is your Agency ensuring on-the-ground compliance with this letter?

Response. Through a delegation of authority, LDEQ has primary authority to implement and enforce NESHAP asbestos standards. LDEQ, with the support of EPA, has completed several activities to help monitor compliance. EPA initially participated in approximately 100 joint inspections, with LDEQ as the lead, of various landfills in Louisiana. These inspections were only a portion of the total number of inspections EPA participated in, as EPA tracked total inspection activities. In addition, joint training workshops were held on NESHAP requirements. The workshops were attended by USACE, FEMA, and various contractors. Also, in quarterly meetings of upper level management from LDEQ and EPA, highlights of the past quarter are raised and discussed.

Periodic conference calls continue with representation from EPA, LDEQ, USACE, Occupational Safety and Health Administration (OSHA), FEMA, and various contractors. These calls include discussion on the requirements of the Federal regulations.

Question 6d. What is the current status of the Louisiana Department of Environmental Quality's compliance with the terms of EPA's letter?

Response. To the best of our knowledge, LDEQ is currently in compliance with the terms of EPA's letter. EPA continues to work closely with LDEQ to assure proper implementation of the asbestos NESHAP. EPA conducts frequent conference calls and responds to questions as they arise.

Question 7a. The EPA's no action assurance letters on asbestos states that the Agency reserves the right to revoke or modify the no action assurance letter it provided for the state of Louisiana with regard to asbestos requirements if, ". . . such action is necessary to protect public health or the environment." What data will EPA be collecting that will permit the Agency to make this determination in a timely manner?

Response. To monitor proper observance of the No Action Assurance letters, EPA is reviewing the results of inspections mentioned in the response to Question 6c above and any available air monitoring data. Periodic conference calls with LDEQ, USACE, OSHA, FEMA, and various contractors also include discussions on LDEQ's use of the No Action Assurance and the requirements of the Federal regulations.

Question 7b. Will EPA continue monitoring activities during housing demolition?

Response. Yes. EPA will continue to assist with monitoring activities through participation in joint or independent site inspections and periodic conference calls.

Question 8a. During the hearing, I asked a question regarding the degree to which EPA'sdebris mission can be completed, given that there are somewhere between 15,000 and 22,000 homes left to be demolished. Can you elaborate on which activities related to debris that EPA plans to abandon in the next 6 months, which activities EPA has already ended, and which activities EPA plans to continue through the completion of all planned demolitions?

Response. EPA remains committed to continuing activities associated with the hurricane response effort. EPA's current efforts include: air monitoring, landfill observation, Murphy Oil oversight, and household hazardous waste collection and disposal. Working with FEMA, EPA will continue to support Louisiana in its recovery efforts until the activities are completed or when a state, local, or another Federal Agency assumes the responsibility.

Question 8b. Will air-monitoring activities continue throughout home demolition?

Response. As indicted in the response to Question 8a above, EPA's air monitoring efforts are ongoing and will continue until this activity is transitioned to a state, local, or another Federal Agency.

Question 9. During the hearing, Senator Inhofe asked a question regarding the responsibility for watery debris removal. Mr. Shea answered that FEMA is responsible based on the Stafford Act. Section 407 of the Stafford Act states: "The President, whenever he determines it to be in the public interest, is authorized (1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters and (2) to make grants to any State or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters" Under this authority, it seems clear that the President could designate any Federal Agency to take the lead for debris removal. Do you agree?

Response. The authority in section 407 of the Stafford Act is given to the President. Section 321 of the Stafford Act says, ". . . [T]he President may exercise, either

directly or through such Federal Agency as the President may designate any power or authority conferred to the President by this chapter." The President in Homeland Security Presidential Decision Directive/HSPD–5 required the Secretary of Homeland Security to develop the National Response Plan (NRP), which provides "the structure and mechanisms for national level policy and operational direction for Federal support to State and local incident managers and for exercising direct Federal authorities and responsibilities." [HSPD–5 (16)(a)]. The Department of Homeland Security (DHS), of which FEMA is a component, coordinates Federal operations and resources. Under Emergency Support Function (ESF)–3–Public Works and Engineering Annex—USACE is the primary Agency for debris removal.

Question 10. In response to the question, "How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste", which I posed to the Army Corps in a recent letter, the Corps responded that EPA is responsible for handling and disposing of hazardous waste during this response. Please describe how you are ensuring that RCRA subtitle C hazardous waste is properly handled.

Response. Under EPA's ESF–10 mission assignment under the NRP, EPA was responsible for the removal of accessible drums, tanks, and other containers of hazardous materials. That material was characterized and disposed of in permitted disposal facilities. USACE, under ESF–3, was responsible for debris disposal, including the demolition of unsafe structures and the resulting debris, and the proper segregation of hazardous materials from the debris. EPA, under our support to the affected states, provided additional oversight of USACE's debris operation, both in the field and at the emergency disposal sites. In support of USACE's mission, EPA disposed of hazardous materials segregated from the debris piles by USACE.

Substantial resources, time, and personnel are applied to the segregation of debris. These efforts span all stages of the process. Following is a summary of related activities:

- EPA distributed a large number of flyers to citizens, volunteers, and contractors which educate them on the proper separation procedures;
- EPA conducted oversight of curbside collection;
- EPA posted signs at landfills;
- Landfill towers review incoming loads;
- Landfill spotters observe the disposal of material;
- Landfill machine operators visually inspect the material as they position it in the landfill; and
- EPA conducts Landfill Observations to review the landfill waste handling procedures.

Question 11. In your letter to me responding to questions relating to debris handling, the EPA cited a Mississippi case where the Mississippi DEQ shut down a site when monitors discovered potential adverse impacts to surface water as evidence sofa monitoring system at work. Please describe what role EPA had in this case, if any, and how the Agency is ensuring that this level of vigilance is present at each landfill throughout the Katrina-impacted area.

Response. EPA's primary role at the D.W. Laney landfill, and at all of the other and fills, was to monitor and report violations related to waste segregation. The landfill monitors made notes in their daily inspection forms regarding observations of potential impacts to both ground water and surface water. Based on these field observations, EPA recommended to Mississippi DEQ that, because of the potential for ground water and surface water contamination, we did not think that this was a suitable site for a construction and demolition (C&D) landfill.

Question 12a. Asbestos.—How is EPA verifying that the conditions pertaining to removal and wetting of asbestos-containing materials prior to demolition as well as handling during disposal are being followed?

Response. EPA has delegated to the states the responsibility for implementing NESHAP asbestos standards, including oversight and enforcement of these standards. EPA'srole is to support the states and provide assistance when requested. EPA has assisted in development fade of policies and has provided training. EPA has also assisted the states by visiting landfills to observe waste handling practices and suggesting improvements for handling debris.

Question 12b. Specifically, how many inspections at landfills in Louisiana has the EPA conducted, is EPA relying primarily on state inspections, and if so, what mechanism is the Agency using to verify that state inspections are actually occurring?

Response. EPA is observing activities at the landfills and has conducted more than 500 observation visits. EPA monitors some landfills used for C&D debris for waste segregation. This effort is described in more detail in response to question 10.

LDEQ has delegation of NESHAP asbestos standards and requires compliance with NESHAP. LDEQ, with the support of EPA, has completed several activities to help monitor compliance. EPA Region 6 enforcement initially participated in approximately 100 joint inspections, with LDEQ as the lead, of various landfills in Louisiana. These inspections were only a portion of the total number of inspections in which EPA participated; EPA tracked the total inspection activities. In addition, joint training workshops were held on NESHAP requirements. The workshops were attended by the USACE, FEMA, and various contractors. Also, periodic conference calls help EPA monitor compliance of NESHAP requirements.

Question 13. Do you agree that it would be a step backwards if the Federal Government returned to the ad hoc, disaster-by-disaster approach to providing disaster aid to states, localities, and individuals that existed before the Stafford Act?

Response. In EPA's view, the Stafford Act provides appropriate authority for disaster assistance.

Question 14a. Until Hurricane Katrina, there were a very limited number of times during which the Congress diverted from normal procedures under the Stafford Act in the wake of a disaster. After Hurricanes Katrina and Rita, Congress has enacted a significant number of legislative changes to the Stafford Act that modify the manner in which disaster assistance is provided, and many more proposals are pending. This was a catastrophic disaster worthy of special actions, but it is unlikely to be the last of its kind, particularly with the changes we can expect as climate change occurs. What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. EPA has not developed a position on Stafford Act revisions.

Question 14b. What specific provisions of the Stafford Act would you recommend modifying in such a category?

Response. EPA has not developed a position on Stafford Act revisions.

Question 15a. The Stafford Act, and the Nation's disaster response, is focused on preparedness and response. There is very little long-term recovery authority in the Stafford Act. Do you believe there is a role for the Federal Government in the area that should be more developed?

Response. EPA believes that existing legislation is adequate.

Question 15b. Is there currently authority for the Federal Government to perform long-term recovery operations?

Response. The NRP addresses Long-Term Recovery and Mitigation in ESF–14. ESF–14 provides a framework for the Federal Government to provide support to State, regional, local, and tribal governments, non-governmental organizations (NGOs), and the private sector designed to enable community recovery from the long-term consequences of an Incident of National Significance. This support consists of available programs and resources of Federal departments and agencies to enable community recovery, especially long-term community recovery, and to reduce or eliminate risk from future incidents, where feasible.

Question 15c. Do you believe that any Federal role should be limited to long-term recovery from catastrophic events?

Response. EPA has not developed a position on the Federal role regarding long-term recovery.

Question 16. What are the criteria for an "enhanced C&D landfill" per the June 29, 2006 Louisiana DEQ Emergency and Administrative order, how are they different from the Subtitle D criteria for C&D landfills under existing EPA regulations, were they approved by EPA, and what were the terms associated with any approval granted? Please provide any relevant documentation for the record.

Response. EPA has reviewed the expanded definition of a C&D landfill under the State's Emergency Declaration with EPA's current definition found in 40 CFR 257.2. We find that the State's expanded definition is comparable to EPA's definition.

The State issued its Sixth Amended Declaration of Emergency and Administrative Order on June 26, 2006 (Order). On page 7, section 2(d) the Order states that, "For the purposes of this Order, construction and debris shall be the materials indicated in Appendix D of this Declaration." Appendix Provides (in pertinent part) that the following hurricane generated debris maybe disposed of in a C&D landfill:

- Nonhazardous waste generally considered not water-soluble, including but not limited to metal, concrete, brick, asphalt, roofing materials, sheet rock, plaster, lumber from construction or demolition project, and other building or structural materials;

• Furniture, carpet, and painted or stained lumber contained in the demolished buildings;
• The incidental admixture of construction and debris with asbestos-contaminated waste. (incidental asbestos-contaminated debris that cannot be extracted from the demolition debris); and
• Yard waste and other vegetative matter.

Appendix D provides that the following materials shall not be disposed of in a C&D landfill:

• "White goods and putrescible waste."

The EPA definition for C&D landfill is found in 40 CFR 257.2 which provides that a C&D landfill cannot accept RCRA hazardous waste or industrial solid waste. The State's Appendix D wastes listed above do not include these kinds of waste. EPA's definition goes on to say that a "C&D landfill typically receives any one or more of the following types of solid wastes: road work material, excavated materials, demolition wastes, construction/renovation waste and site clearance wastes." The types of waste identified in the State's Appendix D list seem consistent with what EPA identifies as material typically sent to a C&D landfill. EPA recognized in a 1995 report entitled "Construction and Demolition Waste Landfills" that various states are receiving a variety of materials in C&D landfills and identifies the various types. EPA's definition recognizes these broad categories of waste.

While EPA's solid waste rules do not directly address asbestos waste, EPA notes that a C&D landfill that receives asbestos waste meeting the definition of 40 CFR part 61, Subpart M, must meet the National Emission Standard for Asbestos found in 40 CFR 61.154.

Question 17. Has EPA reviewed every type of waste, i.e., solid or hazardous, for which procedures were modified by this emergency order, and if so, did the Agency find that the handling of such waste is consistent with Federal requirements?

Response. EPA has reviewed types of solid waste for which procedures were modified by the emergency order. The response to Question 16 above addresses consistency with Federal requirements in handling of such waste.

Question 18. Please describe how the "enhanced" C&D landfills comply with the Federal standards under the Asbestos National Emissions Standard for Hazardous Air Pollutants (NESHAP)(40 CFR 61.150) for disposal of this type of waste material?

Response. Louisiana's C&D landfills may be "enhanced" to comply with Federal asbestos NESHAP requirements so that these C&D landfills could accept the anticipated large volumes of debris from the hurricanes. They would be "enhanced" in that they would add certain precautions required of NESHAP landfills to ensure that the asbestos is handled in accordance with Federal regulations. The improvements maybe minimal, as many of these landfills already have several of the precautions outlined in 40 C.F.R. section 61.150. They may need to add signage or fencing, or ensure that debris is properly covered. The enhancements will vary from landfill to landfill depending on the degree of current compliance.

Question 19a. Over the last 200 years, the Nation has moved from an ad hoc approach to disaster response in Congress, to a coordinated, reliable response. The premise has formed the cornerstone of the Nation's disaster response since the 1960s and early 1970s. Under the Stafford Act, the Federal Government may provide assistance upon declaration of a major disaster or an emergency. A Governor must request a major disaster declaration, and it is limited by section 102 to: ". . . natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought), or regardless of cause, any fire, flood or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss hardship, or suffering caused thereby." An emergency is defined by section 102 as "any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States." I am concerned that there is a hole in the authorities provided under the Stafford Act—the response authorities of the Federal Government that are available in a major disaster may not be available in all types of terrorist events that might only meet the current definition for an emergency declaration. Would the release of a biological agent that does not involve an explosion meet the criteria to even consider a major disaster declaration, and if your

answer is yes, please explain? Are there any EPA authorities that could be or are planned for use in this type of an event?

Response. DHS is responsible for determining whether the release of a biological agent that does not involve an explosion meets the criteria for a major disaster declaration under the Stafford Act. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), EPA has authority to respond to releases or substantial threats of releases of pollutants or contaminants that may present an imminent and substantial danger to the public health or welfare. Biological agents may fall within the definition of pollutant or contaminant in Section 101(33) of CERCLA. EPA used this authority in the Capitol Hill anthrax response.

Question 19b. Do you believe that organizations like the American Red Cross can plan for a response to an epidemic or biological attack without certainty about what assistance the Federal government will provide?

Response. NGOs and volunteer organizations collaborate with first responders, governments at all levels, and other agencies and organizations providing relief services to sustain life, reduce physical and emotional distress, and promote recovery of disaster victims when assistance is not available from other sources. The American Red Cross is a primary agency within ESF-6—Mass Care, Housing, and Human Services. In addition, the American Red Cross is listed as a supporting agency under the NRP for:

- ESF–3—Public Works and Engineering;
- ESF–5—Emergency Management;
- ESF–8—Public Health and Medical Services;
- ESF–11—Agriculture and Natural Resources;
- ESF–14—Long-term Community Recovery; and
- ESF–15—External Affairs.

Question 19c. Do you believe it is a good idea for State and local governments to divert resources from emergency response potentially days after an event to attempt to move legislation through Congress that meets their needs?

Response. EPA has no position on State and local governmental legislative efforts.

Question 19d. What changes should be made to the Stafford Act to ensure that the Federal Government has the appropriate authorities to respond to all types of events, including biological agents, weapons of mass destruction, or epidemics in a coordinated, planned manner?

Response. EPA has not developed a position on Stafford Act amendments.

Responses by Deborah Y. Dietrich to Additional Questions from Senator Vitter

Question 1. EPA plays a supporting role to the Corps in debris removal. While I recognize that CD waste is a state responsibility under Subtitle D of RCRA,there are concerns about asbestos, lead, solvents, cleaners, fuel, fertilizer and many other hazardous substances being co-mingled in the debris. At what point is there a Federal responsibility to review this disposal policy?

Response. As you indicate, the permitting and oversight of solid waste landfills in primarily a state responsibility. Federal law addresses solid waste management generally, but permitting and direct regulation of solid waste landfills are primarily state responsibilities to be conducted pursuant to the state law. The Resource Conservation and Recovery Act (RCRA) Subtitle D establishes a framework for the management of solid waste that is not hazardous waste. As directed by Subtitle D, the U.S. Environmental Protection Agency (EPA) promulgated the minimum criteria for states to use in defining solid waste management disposal practices and in determining whether a facility is a prohibited "open dump." EPA also issued criteria for municipal solid waste landfills that receive hazardous waste from households or small quantity generators and other types of non-municipal solid waste landfills that receive small quantity generator wastes. RCRA Subtitle D does not, however, specifically provide EPA with permitting authority over these solid waste landfills that receive hazardous waste from households or small quantity generators.

EPA has oversight authority over the delegated hazardous waste programs in states. We have seen no evidence that RCRA hazardous wastes have entered a construction and debris (C&D) landfill. EPA also has authority under RCRA section 7003 to take necessary actions including issuing orders, in situations that may present "imminent and substantial endangerment" from the handling of solid or hazardous waste. Landfill operations are being monitored by the states and we do not believe that current circumstances warrant EPA taking action under section 7003.

With respect to the co-mingling of waste, debris sorting is conducted by contractors for the U.S. Army Corps of Engineers (USACE) and, in areas where USACE is not involved, by contractors for the local government. Whether debris is sorted at curbside or at staging areas prior to recycling depends upon contractor operations, as specified in the relevant USACE or local government contract. Debris is generally sorted by waste type (e.g., white goods, construction debris, vegetative debris, or household hazardous waste).

Finally, with respect to the co-mingling of asbestos, the Louisiana Department of Environmental Quality (LDEQ has been delegated the responsibility for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements under the Clean Air Act by EPA.

Question 2. I understand there are a few landfill facilities used for disposal even though USACE, EPA and FEMA knew that the facility did not have a Federal Clean Water permit for discharge of contaminated stormwater or a 404 permit required by USACE regulations as well as other environmental concerns. What steps has EPA taken to ensure environmental compliance and safety?

Response. EPA is not aware that any landfill facilities are operating without proper section 404 authorization. USACE has lead responsibility to enforce section 404 permitting compliance.

In terms of the National Pollution Discharge Elimination System (NPDES) stormwater discharge permitting requirements, LDEQ has informed us that some facilities are covered under the State's emergency declaration with the requirement to follow the provisions identified in LDEQ's general permit for construction and demolition debris landfills. The general permit is based upon EPA rules (40 CFR 445, Landfills Effluent Limit Guidelines). Should the emergency declaration expire, then the facilities would be required to seek and obtain coverage under the C&D landfill general permit. In terms of section 404 permitting requirements, USACE is the permitting authority. Some facilities may be covered by USACE's emergency authorization process. For instance, it is our understanding that the emergency section 404 authorization for the Chef Menteur site is covered under New Orleans District General Permit 20 (NOD–20) "Emergency Permit Procedures for the States of Louisiana and Mississippi within the Boundaries of the Mississippi Valley Division."

STATEMENT OF COREY GRUBER, ACTING EXECUTIVE DIRECTOR, NATIONAL PREPAREDNESS TASK FORCE, DEPARTMENT OF HOMELAND SECURITY

INTRODUCTION

Good morning Chairman Inhofe and Senator Jeffords. Thank you for the opportunity to appear before this committee to discuss important preparedness initiatives within the Department of Homeland Security (DHS).

Our Nation's emergency and public safety services are quite simply the finest in the world. They safeguard our institutions, communities, and critical infrastructure around the clock, and respond heroically when we face sudden challenges from the forces of nature or assaults by the action of man. Yet without a consistent, logical and sustainable way to prepare for 21st century homeland security challenges, unity of effort and operational readiness have proven to be elusive. Our homeland security enterprise has truly extraordinary capacity, but it suffers from a prevailing tendency to prepare in isolation—as if each community, State, or Federal department is "playing its own ballgame." Unsystematic and insufficiently collaborative activities have exacted a severe penalty in uneven performance and repeated and costly operational miscues—often at the expense of the most socially vulnerable segments of society. Today's culture of preparedness requires reexamining our understanding of risk based on threat, vulnerability, and consequence; what it means to be prepared, and how we collaborate across a large, divided, decentralized and highly diversified enterprise.

The Nation needs a dedicated and sustained national effort to organize, guide investments in, and strengthen national preparedness. Preparedness is both a process and an effect. As a process it provides intergovernmental, nongovernmental and private sector partners with the opportunity to collaborate on specific patterns of preparatory actions that contribute to our collective operational readiness. As an effect it contributes to risk reduction through mitigation and to operational effectiveness by planning, training, equipping, exercising and evaluating our ability to prevent, protect from, respond to or recover from threatened or actual terrorist attacks, major disasters or other emergencies.

Americans are by nature problem solvers. We rarely pause to look back and see how much we have accomplished. Homeland security preparedness is a good exam-

ple. Not long ago it was uncommon for professionals from multiple disciplines in the same community to sit down to jointly plan or to participate in an exercise. No more. We are 'resetting our habit switches.' In a few short years we have trained, equipped and exercised hundreds of thousands of front line responders and made concerted efforts to improve planning and explore new means of collaboration. We are turning a corner as a prepared Nation.

Yet while much has been accomplished, we can never be "good enough." We know from painful experience there are systemic infirmities in our preparedness. We fully understand that preparedness is a quest—not a guarantee. Even the most ready community cannot fully anticipate surprise. But while preparedness cannot guarantee success, inadequate preparedness is a proven contributor to failure. Many problems have been the subject of disaster research for decades, but absent dedicated and undivided attention to preparedness, they remained under-emphasized or neglected. Others were unveiled in the shocking immediacy of 9/11 or Hurricane Katrina. They shook our familiar patterns of behavior, and perceptions of risk—profoundly affecting the status quo culture of preparedness.

The Department of Homeland Security (DHS) leads a national preparedness partnership with our fellow Federal departments and agencies, state, local, and tribal governments, nongovernmental organizations and the private sector. Secretary Chertoff and Under Secretary Foresman have made it clear that reforms are necessary, and will be accomplished through a collaborative national effort. The Second Stage Review and establishment of the Preparedness Directorate are rapidly integrating preparedness programs, activities and services to meet the needs of our most important asset—the homeland security professionals across this great Nation—and to build and apply the processes, products and technology necessary to deal with all manner and magnitude of threats and hazards. These efforts are integral to our national resilience and are a key component of the Nation's active, layered defenses.

George Orwell said: "Life is a race between education and catastrophe", which is an apt description for emergency preparedness. We are in a perpetual contest with nature and at war with a determined adversary. History demonstrates that following catastrophic events like the Great Mississippi Flood of 1927, the attack on Pearl Harbor, or at the advent of a generational conflict like the Cold War, the national culture of preparedness acquired a "new set of eyes." Our predecessors adjusted their thinking, reformed their approaches and recalibrated the culture of preparedness. We have been doing the same, through immediate measures in the aftermath of major events as well as by instituting deliberate and methodical efforts to answer four fundamental questions that are necessary to our national preparedness:

- What types and magnitude of threats and risks do we face?
- What level of performance will we demand from our homeland security capabilities?
- What are the most cost effective means for providing required capabilities with the needed performance levels for the threats and risks we specified?
- What resources are available?

The answers to these questions frame a national risk-balancing, hedging strategy. We must balance two portfolios of risk: the forces of nature and the predations of man. Nature is non-adaptive and morally neutral. Major events are often characterized by seasonality and some degree of warning and even predictability. We have familiarity and experience in our favor. Terrorism engages us in a deadly contest of competitive learning. We face a patient and adaptive foe whose attacks, while less frequent, are characterized by surprise and are part of a deliberate strategic campaign.

Both nature and terrorists have the potential to inflict catastrophic levels of harm. Each of these portfolios of risk has an inherent degree of impenetrable uncertainty. Balancing risk and uncertainty with available resources requires hard choices and prioritization. We are doing that by gaining an ever-increasingly sophisticated understanding of risk, by distributing resources in a manner that provides a hedge against uncertainty (as in the case of base allocations of grant funds) and by building agile capabilities. We owe our first line responders and citizens no less.

Building truly interchangeable homeland security capabilities takes more than merely embracing a loosely defined concept like "all hazards." We have turned this concept into a systematic planning methodology using a capabilities-based framework to meet the requirements of Homeland Security Presidential Directive (HSPD)-8, "National Preparedness." HSPD-8 establishes national policies to strengthen the preparedness of the United States to prevent, protect against, respond to, and recover from threatened or actual domestic terrorist attacks, major disasters, and other emergencies. It charged the Secretary of Homeland Security, in coordination with the heads of other appropriate Federal departments and agencies

and in consultation with State, local, territorial, and tribal governments to develop a National Preparedness Goal.

The Goal and its associated tools define capabilities that address the full range of homeland security missions, from prevention through recovery. It adopts an all-hazards and risk-based approach to preparedness. In acknowledging that the Nation cannot prepare fully for every possible contingency, the Goal builds interchangeable capabilities and strikes a balance that weighs risks against available resources.

To compensate for uncertainty, the Goal provides a set of National Planning Scenarios representing a range of threats and hazards that warrant national attention. The National Planning Scenarios identify common assumptions and provide the foundation for the identification of capabilities and tasks to guide nationwide planning regarding potential vulnerabilities and consequences (or impacts) of major events. Analysis of the range of potential impacts is essential for defining requirements, both in terms of capacity (how many are needed) and proficiency (how well must they be able to perform). These requirements must be matched to available resources in emergency operations plans (for the near-term) and in preparedness strategies (for the long-term). Federal, State, local, territorial, and tribal officials supplement this approach with hazard identification and risk assessments that provide additional data on their specific threats and hazards, vulnerabilities and consequences. As a result, officials can tailor the approach to differences in the risk and resource base across the Nation.

The Goal defines what it means for the Nation to be prepared in terms of a national vision, capabilities, and priorities. It identifies the process and priorities for arriving at the destination; it does not dictate the specific path. It is up to Federal, State, local, territorial, and tribal officials, working collaboratively with the private sector, non-governmental organizations, and individual citizens, to determine how to achieve the Goal. To assist officials in that endeavor, the Goal establishes a Capabilities-Based Planning process supported by three planning tools: the National Planning Scenarios, a Target Capabilities List (TCL), and a Universal Task List (UTL). Target Capabilities (the TCL) provide a common reference system for intergovernmental, nongovernmental, and private sector preparedness, and the comprehensive task library (the UTL) provides a common language.

Preparedness ultimately is the responsibility of each individual government, consistent with their authorities and available resources. This includes coordinating preparedness activities among partners operating within their jurisdictional borders, as well as across jurisdictional and geographic borders when dictated by identified hazards and risk assessments. Preparedness should be coordinated using the same multi-agency coordination entities used for operations, as described in the National Incident Management System (NIMS). This is the essence of the concept for implementing the Goal, particularly the national priority to Expand Regional Collaboration.

Preparedness is an integral component of the NIMS. NIMS states that individual Federal, State, local, territorial, and tribal governments are responsible for implementing a preparedness cycle in advance of an event and including the private sector, non-governmental organizations, and individual citizens as appropriate. A preparedness cycle may be summarized as follows:

- Plan,
- Organize and Staff,
- Equip,
- Train,
- Exercise, Evaluate, and Improve.

As I have highlighted, preparedness is not just an administrative function within the Department of Homeland Security. It applies to each office and component within DHS, across the Federal interagency community as well as our State, local, territorial, tribal and private sector partners, and to our most critical team members—the American people. The job of the Preparedness Directorate is to achieve integration and synchronization of these efforts within DHS, and to improve coordination with our Federal, State, and local partners. It is a shared national mission, not simply a Federal activity.

PREPAREDNESS DIRECTORATE MISSION

The mission of the Preparedness Directorate is to prepare individuals and public and private sector organizations for disasters through defining and fostering a culture of preparedness, educating stakeholders, strengthening prevention and resilience capabilities and developing the next generation of homeland security professionals.

To achieve a broader and truly national preparedness, the Department and our State, local, tribal, and private sector partners must coalesce, integrate, and synchronize many disparate initiatives while preserving critical missions, cultures, and identities of individual organizations. Therefore, integration, synchronization, and communication become the foundations to our national preparedness efforts.

BUILDING A NATIONAL PREPAREDNESS SYSTEM

One of the key roles of the Preparedness Directorate is building our national preparedness system, which allow us to better answer the question, "What risks should we prepare for and how well must we prepare?" Given the range of roles and responsibilities of DHS, we must ensure that homeland security capabilities are internally coherent and collectively competent, and are organized within a fully integrated and adaptable national preparedness system.

A fully integrated national preparedness system will result in:

• Strategic and operational flexibility that accommodates risk and uncertainty;

• A capabilities-based framework that organizes the Nation to act in concert, and with the speed and operational effectiveness required for effective prevention and response; and

• The means to measure readiness by an individual entity or at various levels of government.

This national preparedness system will improve the Nation's homeland security and fully leverage the domestic all-hazards emergency response system for natural hazards and other emergencies.

State, local, tribal and private sector partners are not an adjunct to the development of a national preparedness system. Instead, they are integral to the development of a functional and successful system—bringing partnership commitment and participation to sustain and achieve sufficient preparedness capacity to ensure the Nation can effectively deal with catastrophic events. The Nation depends on the resources of State, local and tribal governments, as well as the capacity of our nongovernmental and private sector partners to provide the majority of homeland security capabilities.

Some of the critical initiatives supporting this system are:

• Finalizing national and regional risk assessment methodologies to identify the types and magnitudes of risks we face;

• Encouraging capability-based planning that supports synchronization both vertically (across levels of government) and horizontally (across agencies at each level of government);

Providing risk-based allocation of Federal assistance to State and local governments and other funding recipients and targeted towards building adaptable and interchangeable target capabilities, including capabilities that strengthen citizen resilience;

• Finalizing a system of preparedness measures to assess national, regional, and local preparedness.

Several of these initiatives are well underway in DHS and other Federal agencies. The Preparedness Directorate serves as the architect for this "system of systems" approach to fully integrated national preparedness.

NATIONWIDE PLAN REVIEW

Following Hurricane Katrina, the President directed DHS to conduct an immediate review of emergency plans for the Nation's major cities. Congress subsequently tasked DHS and the Department of Transportation (DOT) to review plans for all States and territories and 75 of the Nation's largest urban areas, with particular emphasis on evacuation planning.

The Nationwide Plan Review, the most comprehensive assessment of catastrophic planning yet undertaken in this country, was designed and conducted by the Department of Homeland Security in conjunction with all 56 U.S. States and Territories and 75 of the Nation's largest urban areas. The assessment consisted of two phases and was conducted in just over 6 months.

The two-phase methodology consisted of a self-assessment by States and urban areas of their own emergency operation plans, followed by an expert peer review. Both phases focused on whether emergency operations plans were sufficient for managing a catastrophic event. The Phase 1 Report, issued February 10, 2006, was compiled using self-assessment data received from States and urban areas. For Phase 2, Peer Review Teams comprised of 77 former State and local homeland security and emergency management officials visited every State and 75 urban areas to review and validate the self-assessments. In total, the Phase 2 teams spoke with 1,086 public safety and homeland security officials and reviewed 2,757 emergency

operations plans and related documents. The Phase 2 Report reflects findings from both phases of the Nationwide Plan Review.

Planners and emergency management officials at all levels of government are working to strengthen plans and formalize mutual aid agreements. Existing plans and capabilities serve the Nation well for the events most commonly experienced in the United States. However, the review found that disaster planning for catastrophic events in the United States suffers from outmoded planning processes, products, and tools. Plans are not coordinated in a systematic fashion, and are not expansible for the scope of catastrophic events that could potentially occur. The Review outlines 15 initial conclusions for States and urban areas and 24 for the Federal Government. Most focus on the need to make specific improvements in plans and to modernize national planning efforts.

The conclusions for States and urban areas should not be a surprise, and include the need for coordination of planning across jurisdictions and levels of government; improved evacuation planning; concerted attention to special needs populations; planning for continuity of operations and continuity of government; assuring a robust and resilient command structure; enhanced patient tracking; improved resource management; and strengthened operational and public communications.

The conclusions for the Federal Government focus the benefits of a shared national homeland security planning system; strengthening collaboration and coordination; improving emergency communications; creating incentives for planning and planning excellence; strengthening regional planning capabilities; and better implementing capabilities based planning. More work remains on how to translate such conclusions into concrete action.

While the results were mixed, the report acknowledges that many States and urban areas have initiatives well underway that are on the right trajectory, and are already modernizing and strengthening existing catastrophic plans. Completing the Review allowed us to establish the first ever baseline of the status of the Nation's plans. DHS is working with States and urban areas to improve plans, support training and exercise initiatives, and engage in discussions on how to meet the catastrophic planning challenges identified in the final Report. Plans are the centers of gravity that guide and unite national efforts in response to catastrophic disasters. Planning modernization is a priority for the Department.

THE NATIONAL PREPAREDNESS TASK FORCE

To build the National Preparedness System and respond to the recommendations of the Nationwide Plan Review, the Preparedness Directorate has established a new National Preparedness Task Force, for which I serve as the Executive Director. The Task Force will bring together DHS preparedness policy, planning, exercise, evaluation, and field management assets to create comprehensive solutions to the preparedness challenges I have outlined.

As an enabling element of the Preparedness Directorate, the Task Force will oversee integrated national preparedness efforts to ensure coordinated strategic partnering and development of standard preparedness doctrine. Preparedness policy, doctrine, planning, exercises and expertise are critical enablers for our operational components and our intergovernmental, nongovernmental, and private sector partners. This reflects the vision outlined in HSPD–8. The Department requires a lead preparedness integrator to support national preparedness transformation. This function will be accomplished within the Preparedness Directorate to promote synchronization and integration of national preparedness initiatives and requirements. The Task Force will link requirements with emerging technology, doctrine, and operational requirements, techniques, and procedures to ensure the integration, interoperability, and operational effectiveness of the Nation's homeland security capabilities.

The President and Congress have consistently identified the need for specific and measurable goals for preparedness, continuous national collaboration, application of assistance where the need is greatest, determination of essential capabilities that communities need, and advanced planning processes that ensure plans are adequate and feasible and achieve required synchronization. HSPD–8, Hurricane Katrina, and the strategic requirements of the war on terrorism have demonstrated the need for transformation in how we achieve national preparedness. The Task Force is empowered to drive transformation by enhancing homeland security preparedness through new combinations of concepts, capabilities, people, and organization that exploit the Nation's advantages and protect against our vulnerabilities by building and sustaining national resilience.

PREP RELATIONSHIP WITH FEMA

As Secretary Chertoff has stated, DHS must operate as an all hazards, fully integrated organization. He said this when he announced our Second Stage Review one month prior to Katrina, and our experiences since then have only reinforced our belief in this approach. The Federal Emergency Management Agency—and States and communities across the country must be prepared to respond to and recover from all disasters, whether caused by nature or terrorism. While FEMA and its partners are engaged in response and recovery, which can often be of protracted duration, the Preparedness Directorate ensures that there is no disruption to preparedness programs, activities and services to the balance of the Nation.

The need for undivided attention to preparedness is especially acute given the characteristics of the homeland security community. The homeland security mission is exceptionally interdependent and interrelated, yet the community is loosely coupled, dispersed and decentralized, with rigidly divided responsibilities, distinct interests and cultures and a highly diversified administrative apparatus. Given these factors, preparedness requires unwavering focus and attention.

The Nation's homeland security operational tempo moves through a series of "crests and troughs." This is best illustrated by the cycle of activity associated with preparations for hurricane season. We concentrate preparedness activities to ensure readiness for an upcoming season (the "crest"), and then reconstitute our capabilities when and if operational tempo allows (the "trough"). In the past, the Nation has tried to "time" hyper-readiness with "crests" and conduct preparedness activities when and if the operational tempo provides relief. Our operational tempo has intensified due to natural cycles of severe weather activity, and because we are engaged in a global war on terror. Trying to prepare a nation in episodic bursts of activity that suffer frequent and protracted interruptions is difficult and ultimately unsustainable. This is why the Department has established a Directorate that commits its undivided attention and a dedicated focus to the Nation's preparedness and operational readiness.

By focusing FEMA on its core competencies of response and recovery, and a new Directorate on preparedness, the Secretary acknowledged the critical nature of both missions to the Nation's homeland security. We have not taken FEMA out of the preparedness business, nor have we taken preparedness out of FEMA. We have created a centralized engine for coordinating the multitude of preparedness activities within DHS, and to better plan for coordinating with other Federal, State, and local departments and agencies. Our department's operating components, such as FEMA and the Coast Guard will continue to perform their agency-specific preparedness activities to ensure operational preparedness.

In addition to working closely with DHS' other operating components and its response and recovery partners across all levels of government, FEMA is intricately linked with the Preparedness Directorate. The Preparedness Directorate handles grants, training, exercises, infrastructure protection, and medical preparedness, among other key activities. Consolidating these programs and activities in a single Directorate is yielding considerable synergy which benefits FEMA as part of a single, all-hazards department. The Administration recognizes that there are other means of integrating these efforts, and is working with Congress on how those could be implemented effectively.

CLOSE

In closing, Mr. Chairman, the President and Congress have consistently identified the need for specific and measurable goals for preparedness, national cooperation, application of assistance where the need is greatest, determination of essential capabilities that communities need, and advanced planning processes that ensure plans are adequate and feasible and achieve required synchronization. HSPD-8 "National Preparedness," Hurricane Katrina lessons learned, and the strategic requirements of the war on terrorism all support transformation of our national preparedness. We must change our practices and doctrine to reflect our 21st century challenges, to exploit the Nation's strengths and protect against our vulnerabilities by building and sustaining national resilience.

This Nation has successfully faced comparably daunting challenges throughout its history. The men and women of the Department of Homeland Security and their counterparts across government and in nongovernmental organizations and the private sector are acting to correct systemic infirmities in our preparedness and the specific shortcomings that were revealed in preparations for and the emergency response to Hurricane Katrina. Our undivided attention to the Nation's preparedness gives us a set of new eyes' to methodically probe for root causes and understudied

problems and look at the people, processes, products and technology that comprise this increasingly sophisticated and effective homeland security enterprise.

Thank you once again for providing me the opportunity to speak with you today and for your continued support to the Department.

I look forward to answering any questions you may have.

STATEMENT OF ARMOND MASCELLI, VICE PRESIDENT OF DOMESTIC RESPONSE, AMERICAN RED CROSS

Chairman Inhofe, Ranking Member Jeffords, and Members of the committee, my name is Armond Mascelli and I am the Vice President for Domestic Response at the American Red Cross. I am pleased to appear before you today, and I commend you for your leadership in taking a close look at the Stafford Act in an effort to better prepare the Nation for the next major disaster.

For 125 years, the American Red Cross has been America's partner in prevention, preparedness and response to all disasters. Chartered by Congress in 1905 to provide assistance in the time of disaster and to mitigate suffering caused by disaster, the American Red Cross continues to realize this mandate today.

The Red Cross, a nationwide network of more than 800 community based chapters, eight regional service areas and 35 blood services regions, is governed by volunteers and supported by the generous donations of the American people. With 1 million volunteers and more than 30,000 employees, the Red Cross trains nearly 12 million people in lifesaving skills and assists U.S. military families. The Red Cross also is the largest supplier of blood and blood products to more than 3,000 hospitals across the Nation.

The Red Cross is effective because it relies on a local network to offer support and provide services to those who are affected by disasters. Simply put, we exemplify neighbor helping neighbor.

To better meet the challenges of ever growing major and catastrophic disasters, we continue to build upon the strength of our local network. We are also reaching out to and partnering with others in the nonprofit, charitable, and faith-based communities like never before. Additionally, we are improving coordination efforts with Federal, State and local officials.

Each year, the American Red Cross responds to more than 70,000 disasters. The vast majority of these disasters are single family home fires. We stand ready to support the first responders in times of disaster, and in addition, provide support for those that find their lives disrupted by disaster.

Individual client assistance has always been at the forefront of the Red Cross response, and in providing this assistance, our first priority is to ensure that those affected by disaster have a safe shelter and are provided with the basic necessities of life such as food, toiletries, bedding and first aid. Our second priority is assisting them as they take their first steps on the road back to recovery. Meeting these immediate emergency needs helps to bridge the gap between a disaster occurring and resources offered by Federal and State governments—the very assistance that is provided to individuals through the Stafford Act.

I also want to take this opportunity to explain the role of the American Red Cross in the National Response Plan (NRP). In addition to being a service provider, the Red Cross has a primary responsibility as the lead for an emergency support function in the National Response Plan. We also have supporting responsibilities in six other emergency support functions.

The primary role that we play in Emergency Support Function No. 6 (ESF6) is mass care, housing, and human services. We are the primary agency for coordinating mass care while DHS/FEMA has primary responsibility for housing, and human services. In other words, the Red Cross coordinates Federal resources in support of State and local mass care efforts.

In our coordination role, we process requests from State and local authorities or other non-governmental organizations (with State concurrence) for Federal assistance through the appropriate FEMA channels. This is accomplished by a process where the Red Cross ESF6 liaison completes an Action Request Form (ARF) detailing the specific Federal assistance required. The ARF is forwarded to the FEMA Human Services Branch Chief, where if approved, it becomes a mission assignment for tasking.

The American Red Cross itself does not mission assign, nor are we mission assigned under the NRP. We provide this expertise as a contribution to our Nation and its people in need. It is important to re-emphasize that State and local authorities decide their respective priorities for Federal mass care assistance. This is consistent with the National Incident Management System (NIMS) upon which the

NRP is based—that all incidents should be handled at the lowest possible organizational and jurisdictional level. We do not have directive authority over any other Federal Agency or non-governmental organization.

In our ESF6 primary role, we also relay mass care information (like shelter counts and population) from various field locations to higher headquarters for appropriate action.

The limited interpretation of our coordination function, which includes the processing of ARFs for Federal assistance and the flow of mass care-related information, is sometimes misunderstood. As a member of the International Federation of the Red Cross movement, our fundamental principles of neutrality, impartiality, and independence could be jeopardized if we take on the role or appearance of a Federal Agency.

In our Preparedness and Response Department, we have created a special office for Federal response, headed by a vice president, dedicated to integrating Red Cross response efforts with FEMA, DHS, HHS, CDC, HUD, DOD, DOT and other agencies that wish to engage us in discussions, briefings, planning sessions, and exercises.

While I realize that the NRP may fall outside of the jurisdiction of this committee, I believe it is important to share this information with you as later in my testimony, I will be urging the need for the National Response Plan and the Stafford Act to work together seamlessly. As both a signatory to the National Response Plan, with mandated primary responsibilities, and as a direct service provider to victims of disasters, ensuring this continuity between the Nation's plan and the legislation that allows for Federal assistance to disaster victims, is vital as we all work toward the same goal—assisting those devastated by disaster.

STAFFORD ACT

The American Red Cross is mentioned in the Stafford Act, and we believe this is important. It is important for all levels of government to understand the role and importance of nongovernmental organizations in disaster preparedness, response, and relief in the United States.

As requested by this committee, I will address four major areas for possible reforms of the Stafford Act. The first is debris cleanup; second, I will address preparation and mitigation efforts by individuals and communities; third, I will discuss our organization's views regarding the Stafford Act's authorities during catastrophic events, including terrorist attacks and the threat of pandemic flu; and finally, I will provide general recommendations for the committee's consideration.

Debris Clean-Up

The American Red Cross does not provide or engage in debris clean-up in the wake of large-scale disasters, however, ensuring that debris is quickly and efficiently removed has a very big impact on the well being of our clients and on our ability to provide assistance to those in need. While the Red Cross strives to provide assistance, in many cases starting with evacuation sheltering and feeding operations, recovery cannot begin to take place until individuals and families are allowed to return to their homes, assess damages, and to plan and proceed with their very personal recovery. In addition, speedy action contains and reduces potential public health and safety problems.

The wake of Hurricane Katrina is a perfect example. With more than 90,000 square miles of damage—the size of Great Britain—the American Red Cross had shelters opened for more than 4 months. Our typical sheltering operations last only a few days. Individuals and families often arrive at our shelters when evacuation orders are in effect and leave not long after a storm passes. During traditional responses, Red Cross workers will offer assistance in a client's home; helping them to assess their needs and allowing us to provide very individualized assistance.

Hundreds of thousands of people, however, were not allowed to return home following Katrina, forcing our Nation's responders to remain in response mode, and preventing individuals from beginning their long road of recovery. The quicker things can be restored, the quicker people can proceed to re-establish in their communities.

Preparation and Mitigation

First and foremost, since Congress passed, and the President signed into law, the Disaster Mitigation Act (DMA) of 2000, mitigation and preparedness efforts have gotten some traction, however they have not necessarily seen their full potential. I urge this committee to review the findings of the DMA as intended by the Congress, and recommend that consideration be given to whether or not those findings have been addressed adequately.

The American Red Cross works with individuals, communities, States and the Federal Government to help our Nation, and our citizens, be prepared for any disaster that comes their way. Red Cross programs are configured to disaster risk, that is, we design programs for individuals and families to prepare for natural disasters that are conducive to their geographic areas. As we rely on the neighbor helping neighbor philosophy, we encourage local communities to become more aware of potential hazards that could adversely impact their regions and prepare accordingly.

The Red Cross firmly believes in the importance of preparedness and has developed numerous tools and resources offered in a number of different languages to help families prepare for any unexpected disasters, from a house fire to a hurricane.

Over the past several years, organizations that help to prepare communities, as well as local, State and Federal Governments, have made efforts to streamline our messages on preparedness. Studies have indicated that having a single message helps individuals better understand what they need to do to protect themselves and their loved ones during times of disaster.

The private sector also has had an impact on improving mitigation. For instance, most mortgage lenders require that homeowners maintain and obtain some level of homeowners insurance. For most Americans, insurance is a personal risk assessment, but now that mortgage companies require such insurance, this has gone a long way to help those who do experience disasters.

Recently, the President has directed the Department of Homeland Security to create a better national Emergency Alert System, to include sending emergency alerts to cell phones, Internet sites, and hand-held computers. In addition, the President directed that the system extend from use in a nuclear attack to include other disasters such as terrorist attack, natural disasters, or other hazards to public safety and well-being. During a disaster, every second counts. We believe this is a good move on behalf of the Administration to enhance the ability of individuals to respond to impending threatening incidents.

Yet, there is more that can be done to help improve mitigation and preparedness efforts.

Despite these efforts by the American Red Cross and others, the message on preparedness needs to be better articulated to the American people. There are steps that each and every person should take to help ensure they are better prepared for any disaster that may come their way, including:

Get a Kit.—Every household should have prepared and ready to go a disaster kit that includes enough food and supplies to last each family member for three days. This could be an old knapsack or backpack with water, basic first aid supplies, any critical documents (such as photocopies of driver's licenses), necessary medicines, a change of clothes, and a small amount of cash. This kit should be replenished as necessary to ensure that food, water, and medicines are fresh. This should be the one thing that anyone needing to leave in a hurry can grab to take with them. In addition, families should consider any special needs, including those of loved ones as well as their family pets.

Make a Plan.—This plan should incorporate such things as where an individual and their loved ones would go in the event of a disaster, how they would communicate with a friend or loved one to let someone know where they are and that they are safe, particularly when critical infrastructure like phone lines are down.

Be Informed.—Either by your local Red Cross or another organization that offers critical trainings on making a disaster plan, a communications plan, and first aid/CPR. Knowing what to do during a time of disaster is critical to ensuring one's safety and the safety of their loved ones.

More than 800 chapters of the Red Cross in communities across this Nation stand ready to help their neighbors become better informed and to provide guidance on making a plan and steps for building a kit.

Catastrophic Events

While the Stafford Act appears to work well for major natural disasters including floods, hurricanes, and tornadoes, it does not incorporate other disasters, such as manmade disasters, bio/chemical disasters, or pandemic situations. Moreover, there appears to be some questions as to the applicability to the special circumstances of catastrophic disasters.

We suggest that if there is going to be one Federal resource for individuals to receive assistance after disasters, it must be comprehensive and flexible enough to accommodate all disasters. While in response to large scale disasters, particularly after 9/11, Congress quickly acted to provide assistance to families of those impacted, it could be more efficient for agencies that support the Federal response to have Congress address potential needs in advance of an incident.

I encourage the committee to consider, if possible, making the Stafford Act more flexible to provide for responding to disasters other than just natural disasters, allowing it to be nimble and to adapt to unanticipated human needs or other national priorities.

General Recommendations

There are a number of more general recommendations on reform of the Stafford Act that I would like to provide the committee for consideration.

- Congress should restore the post-disaster mitigation program at the 15 percent level of disaster costs for the Hazard Mitigation Grant Program (HMGP). HMGP grants are used for such things as rebuilding at a higher building code level, for purchasing repetitive loss properties, and for projects that will prevent or minimize the next disaster. We believe that every dollar spent on mitigation, is a dollar well spent.
- Congress must adequately address the cap on disaster repair for the Individual and Family Grant program. The American Red Cross, as well as many other organizations and emergency management officials, believe the current cap of $5,000 should be raised to a more effective and realistic level.
- Congress should reinstate the Mortgage and Rental Assistance Program. The Mortgage and Rental Assistance Program was eliminated in the DMA. However, Congress utilized the program for recent catastrophic disasters such as the September 11, 2001 terrorist attacks and Hurricane Katrina. The program allows for disaster victims to receive Federal assistance to pay for mortgage and rental costs when displaced from their homes in a major disaster. The program should be reinstated and allowed to be used for future disasters.

CONCLUSION

Mr. Chairman, Senator Jeffords, and Members of the committee, I thank you for providing me with the opportunity to share my thoughts and recommendations for changes to the Stafford Act.

The American Red Cross has a long history of our work to better prepare our Nation's citizens for any disaster, and to help them respond when disaster strikes. I am pleased to have had this opportunity to be here today, and would be happy to answer any questions that you might have.

RESPONSES BY ARMOND MASCELLI TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. I believe it is imperative that there be a cross-walk between the Stafford Act and the National Response Plan (NRP) to ensure that the mechanism for Federal disaster assistance melds with the Plan for Federal response to major incidents. The National Response Plan contains an annex dedicated to catastrophic incidents. We believe the Stafford Act must be flexible enough to facilitate all the support needed during a catastrophic response as addressed in the Catastrophic Annex of the NRP. If it does not, then there should be changes to the Stafford Act to ensure that all necessary support is available during a response to a catastrophic incident.

Question 2a. Recovery.—Do you believe that there is a role for the Federal Government in long-term recovery of areas hit by disaster?

Response. The American Red Cross has been America's partner in prepare dness and response to disasters for the past 125 years. In more than 800 Red Cross chapters across the United States, we provide lifesaving trainings for communities and individuals. Working closely with partners at all levels of government and in the private and for-profit sectors, we educate individuals in disaster preparedness and encourage all individuals to be prepared.

Question 2b. Is there existing authority for this function?

Response. We respond to more than 70,000 disasters each year and while the majority of these disasters are single family home fires, we also respond to large scale incidents, such as hurricanes, tornadoes, floods, and manmade events. Last year in response to Hurricanes Katrina, Rita, and Wilma, the Red Cross provided shelter for more than 500,000 evacuees; provided more than 65 million hot meals and snacks; and cared for the emotional and mental well being of those impacted by the hurricanes.

Question 2c. Should any expanded role should apply to all disasters or be limited to catastrophic events?

Response. After a disaster strikes, the Red Cross endeavors to provide for the immediate emergency needs of those affected. We provide assistance that helps to bridge the gap between a disaster occurring and when longer-term assistance begins. We are the agency that helps get disaster victims closer to the road of recovery.

While we support efforts that intend to aide in an individual or family's recovery, we do not take a position on the role of the Federal Government in long-term disaster. We work closely with government at all to help communities prepare, and to help communities respond to disaster. The services we provide are client-focused, intended to ensure that the most basic emergency needs of disaster victims are met—food, shelter, mental well being, family tracing, and first aid.

Question 3. How do you believe the administration of the preparedness functions of the Stafford Act have been or will be impacted by the division of responsibilities between the so-called Preparedness Directorate and FEMA?

Response. As I indicated in my written statement, and in my answer to question No. 1, it is our belief that there be a cross walk between the Stafford Act and the National Response Plan (NRP) to ensure that the mechanism for Federal disaster assistance melds with the Plan for Federal response to major incidents.

From the Red Cross perspective, we look at the incidents of risk that are increasing at significant rates. For instance, the demographics of where individuals are living in our Nation—many more coastal properties and residents. When we look at the scope of disasters we respond to, particularly the much larger incidents, mitigation becomes increasingly important. If mitigation is not addressed in an effective way, just as other components of emergency management, then responses will suffer.

How the Federal Government structures this is really up to the Congress and the Administration to decide, but we would strongly recommend that mitigation efforts increase.

Question 4a. Until Hurricane Katrina, there were a very limited number of times during which the Congress diverted from normal procedures under the Stafford Act in the wake of a disaster. After Hurricanes Katrina and Rita, the Congress has enacted a significant number of legislative changes to the Stafford Act that modify the manner in which disaster assistance is provided, and many more proposals are pending. This was a catastrophic disaster worthy of special action, but it is unlikely to be the last of its kind, particularly with the changes we can expect as climate change occurs.

What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. Building on the answer provided in question No. 1, it is very important that the Stafford Act and National Response Plan are coordinated. It is fair for all preparedness and response agencies to believe that Katrina is not the only catastrophic event we will be faced with.

Question 4b. What specific provisions of the Stafford Act would you recommend modifying in such a category?

Response. The Stafford Act has proven to work well for major natural disasters, including floods, hurricanes, and tornados, however it does not incorporate other disasters, such as manmade disasters, biological or chemical disasters, or pandemic situations. The Stafford Act should be made more flexible to provide for these types of disasters, and again, there should be a crosswalk between the NRP and the Stafford Act to ensure that the Stafford Act can adequately facilitate the support required by the NRP, including financial, and to ensure that responsibilities are aligned with authorities. Much to this point, consideration should be given to ensure that the needs are clearly identified.

While Congress has acted to make quick changes to Federal responses in the past, we would urge that Congress endeavor to incorporate changes that provide flexibility to Federal disaster response, allowing it to be nimble and to adapt to unanticipated human needs or other priorities.

Question 5. In your opinion did the Disaster Mitigation Act of 2000 work and what changes should be made to address what, if anything did not work?

Response. In my written and oral statement, I shared with the committee some thoughts on the Disaster Mitigation Act of 2000. Primarily, in the Disaster Mitigation Act of 2000, the intent of Congress, as reflected in the legislation, was to:

- revise and broaden the scope of existing disaster relief programs;

• encourage the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;
• achieve greater coordination and responsiveness of disaster preparedness and relief programs;
• encourage individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;
• encourage hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations; and
• provide Federal assistance programs for both public and private losses sustained in disasters.

While these intentions have raised awareness and improved upon overall preparedness, they have not been fully realized. In order to better realize these desired outcomes, we believe that the Stafford Act, and other actions by Congress, should tie mitigation funding and programs to goals with concrete measurements. Mitigation is important, and we believe that the government sector can play a larger role in ensuring mitigation practices are implemented—part of this is to restore the post-disaster mitigation program for the Hazard Mitigation Grant Program (HMGP).

Additionally, FEMA's Rental Assistance Program should be separated from the $25,000 cap on other individual assistance programs. More flexible use of funds under the cap for home repair should be considered as well. And finally, the use of trailers as the only de facto Long Term Recovery strategy for housing should be reconsidered. Funding may be better used for home repairs, or as direct assistance to victims to purchase sustainable properties instead of trailers. Also, more aggressive look at commercial housing options and access to existing federally owned housing stock in and near disaster affected areas.

Question 6. The report entitled, "Natural Hazard Mitigation Saves", issued in 2005 found that mitigation is most effective when it is carried out on a comprehensive, community-wide, long-term basis, as opposed through single, unrelated projects. Can you describe your views on how FEMA has implemented that finding since 2005 and any recommendations you may have on policy or legislative changes that should be made to fully implement that recommendation?

Response. Since there are two questions referencing the 2005 report, "Natural Hazard Mitigation Saves," let me take this opportunity to offer one response to both inquiries. We share your interest in working with FEMA to respond to recommendations contained in this report. As the American Red Cross continues to advocate for preparedness, we support any efforts of the local, state and Federal levels that attempt to address matters in a unified approach well before any disasters take place. Certainly, FEMA is in the best position to offer insight into the agency's actions and provide recommendations for future policy or legislative changes.

Question 7. Since the report on mitigation, entitled "Natural Hazard Mitigation Saves" was issued in 2005, what actions has FEMA taken to enhance the mitigation programs it administers? Specifically, how has FEMA implemented the findings that: mitigation is most effective when it is carried out on a comprehensive, community-wide, long-term basis, as opposed to through single, unrelated projects?

Response. No response.

Question 8a. Over the last 200 years, the Nation has moved from an ad hoc approach to disaster response in Congress, to a coordinated, reliable response. This premise has formed the cornerstone of the Nation's disaster response since the 1960s and early 1970s. Under the Stafford Act, the Federal Government may provide assistance upon declaration of a major disaster or an emergency. A Governor must request a major disaster declaration, and it is limited by section 101 to: "natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, eartquake, volcanic eruption, landslide, mudslide, snowstorm or drought), or regardless of cause, any fire, flood or explosion, in any part of the United States, whcih in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local government, and disaster relief organizations in alleviating the damange, loss hardship, or suffering caused thereby." An emergency is defined by section 101 as "any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States." I am concerned that there is a hole in the authorities provided under the Stafford Act—the response authorities of the Federal Government that are available in a major disaster may not be available in

all types of terrorist events that might only meet the current definition for an emergency declaration.

Would the release of a biological agent that does not involve an explosion meet the criteria to even consider a disaster declaration, and if your answer is yes, please explain.

Response. You are correct in noting that we have experienced a significant shift in disaster response from an ad hoc approach to a formalized, systematic process. The Stafford Act remains an effective resource when the Federal Government steps in during major disasters.

Question 8b. Do you believe that your organization can plan for a response to an epidemic or biological attack without certainty about what assistance the Federal government will provide?

Response. Nevertheless, as the conversations about disaster response evolve to include biological incidents, it is equally important for the Stafford Act to recognize such acts. In fact, the Stafford Act must be crystal clear in what it covers as there is not time for differing interpretations when disaster strikes. As we all know, there have been recent instances where Congress has had to act quickly to make changes to, or provide additional resources, allow a more robust and quick response. While we commend the Congress for their swift action during times of major disasters, we also recognize that this is a good time to imagine "bigger"—and to ensure that the Stafford Act, as well as the NRP, has the ability to respond to many different scenarios, from hurricanes to catastrophic events, to bioterrorism, pandemics and man-made incidents.

Question 8c. Do you believe it is a good idea for state and local governments to divert resources from emergency response potentially days after an event to attempt to move legislation through Congress that meets their needs?

Response. The American Red Cross supports any initiatives advocating preparedness. We continually share information on how families, organizations and businesses can better prepare before a disaster. This is cornerstone of our mission. As the Nation continues to discuss how best to plan and respond to an epidemic or biological attack, the American Red Cross will actively participate in these discussions. Moreover, ensuring that a collaborative local, state, and Federal response to large scale disasters are in place long before disaster strikes is a sure way to allow agencies at all levels to prepare. Being prepared is important; however, looking beyond our current scope of disasters and becoming better prepared is essential.

Question 8d. What changes should be made to the Stafford Act to ensure that the Federal Government has the appropriate authorities to respond to all types of events, including biological agents, weapons of mass desctruction, or epidemics in a coordinated, planned, manner?

Response. Specific to the Stafford Act, we believe that changes should be made that would allow more flexible to provide for all types of disasters. We also believe there should be a cross-walk between the NRP and the Stafford Act to ensure that the Stafford Act can adequately facilitate the support required by the NRP, including financial, and to ensure that responsibilities are aligned with authorities.

Question 9. Can you describe the mechanisms that the Red Cross has in place to ensure that funds donated to disaster victims by the public are properly used and tracked?

Response. Following the influx of generous contributions to the American Red Cross in wake of the terrorist attacks on September 11, 2001, the American Red Cross implemented new and robust fundraising practices called DonorDIRECT, which stands for D(onor) I(ntent), RE(cognition), C(onfirmation), and T(rust). This new initiative expanded Red Cross efforts to educate donors about the Red Cross General Disaster Relief Fund and instituted a new system of affirmative confirmation and acknowledgement to ensure all disaster-related donations are directed as intended.

The Red Cross Donor DIRECT fund-raising system was established to verify donor intent and ensure donors understand how the Red Cross assists victims of disasters. This system includes educating donors while soliciting or accepting the donation. Donors also receive an acknowledgement after their contributions have been received that reconfirm their intent and the purposes for which their contributions will be used. These acknowledgements also instruct donors on what to do if they have any questions about the use of their contributions.

As an independent nonprofit organization that relies on the generosity of the American public to fulfill our mission, the American Red Cross is fully committed to maintaining the trust and support of our donors. Donated funds designated for specific relief efforts will be spent on Red Cross services that support the victims of these disasters. Among other things these funds help meet the emergency needs

of disaster victims, including food, shelter and counseling. The Red Cross is committed to honoring the intentions of its donors and will use all designated funds accordingly.

As good stewards of donated dollars, the American Red Cross has a standard practice of informing the public when sufficient funds have been raised to cover the costs associated with the response to a disaster. Nevertheless, if more than enough funds are raised, the Red Cross has policies in place to ensure donor intent is honored by devoting those funds to disaster relief, recovery efforts, and disaster preparedness in the affected areas.

RESPONSES BY ARMOND MASCELLI TO ADDITIONAL QUESTIONS FROM SENATOR OBAMA

Question 1. The Federal Government and localities relied on the Red Cross for a variety of emergency responses in the aftermath of Hurricane Katrina, from family reunification issues to the evacuation of special needs populations. Is the Red Cross capable of handling these tasks on a regular basis?

Response. The American Red Cross has been the Nation's premier partner in preparedness and response to major disasters for the past 125 years. We work closely with government at all levels, in addition to our partners in the nonprofit and forprofit sectors. While there are several mandates the American Red Cross is tasked to do by the Federal government during times of major disasters, there were areas where we fell short in our response to Hurricane Katrina. We have spent a considerable amount of resources to ensure that our response to a disaster the size and scope of Katrina is better executed and that we reach more people more quickly.

I want to take a moment, however, to address and add clarification to the two areas you specifically mentioned. The American Red Cross does provide family reunification services, which we refer to as "family tracing." In most disasters, infrastructure is temporarily damaged, so most family members have the ability to communicate fairly quickly after a storm by using landlines or cell phones. Katrina was the exception. Communications systems were so severely damaged that individuals went weeks without being able to connect to their loved ones.

Also, during most disasters, we provide family tracing services as part of our individual case work. If the Red Cross receives a request from a family member, Red Cross volunteers will locate the missing family member and ensure their safety, as well as provide a message from a concerned loved one. This is not to be mistaken for search and rescue, which is the efforts of local, state, and Federal first responder agencies.

When it became evident that families would not be returning to their homes for weeks and maybe even months, dozens of ad hoc Web sites sprung up allowing individuals to register as "safe" and allowing concerned family members a mechanism of searching the world wide web to find the location of their loved ones. The American Red Cross created such a Web site and encouraged disaster evacuees and survivors to register either on the Web site or by calling a 1-800 number. Three days after Hurricane Katrina hit the Gulf Coast, more than 60 people from various technology companies offered to help. Within 2 days after that, these generous individuals increased Red Cross networking capacity by 400 percent.

To expand our efforts, the International Committee of the Red Cross' Family Linking system was adapted. Red Cross technology partners were able to create a site that functioned much like the search engines of MSN and Google. The site searched the Internet, collected links to other sites that offered similar services, and consolidated them, enabling families to more easily check on loved ones in the registry.

The American Red Cross "Safe and Well" Web site was the result of this effort. Accessible through redcross.org, the Safe and Well Web site allows disaster victims to select and post standard messages that they are well and will be in contact. Those worried about a missing loved one can check the registry and read posted messages. There is also a phone-based service for those who cannot access the Internet.

As this is a voluntary registry, we have created a system that will work collaboratively with any Federal agency to share the information available on our Safe and Well Web site.

Regarding evacuating individuals with special needs, the American Red Cross does not evacuate any individuals from affected areas, regardless of whether or not they are individuals with special needs. Evacuation orders are given by local officials and carried out by local emergency management. The American Red Cross does provide shelters in safe areas. In fact, the majority of sheltering operations are evacuation shelters.

Red Cross shelters are "congregate" shelters, meaning they are set up for individuals who have the ability to live independently. Special needs shelters, which exist for those with special medical conditions or other special needs who are unable to live independently, are operated by the local health administration and/or emergency management. The American Red Cross is not equipped to provide medical assistance or care beyond general first aid.

Hurricane Katrina, however, proved to be a challenge. Many Red Cross sheltering operations were doubling as medical centers—a challenge we have never faced before. With so many individuals needing assistance, we could not turn away those with special needs. That said, while there were many good stories of cooperation that allowed several shelters to provide pharmaceutical medication and provide care to those with special needs, there were as many instances where Red Cross volunteers may have acted "by the book" and did not welcome individuals with special needs into a "congregate" shelter.

We appreciate Congressional attention to this topic because it is a major area of vulnerability for agencies that provide for immediate emergency needs. To better prepare for the 2006 hurricane season, and those beyond, the American Red Cross has partnered with several organizations representing individuals with disabilities that have expertise in the specialized needs of people with disabilities. [Describe the partnerships in place and list some orgs]. . .

Question 2. What changes do you suggest to the Stafford Act to help Federal, State, and local governments better work with the Red Cross in a disaster?

Response. While we believe that the Stafford Act provides the framework for the Federal Response, and overall is solid, there are some specific programmatic areas we would like to have considered. In particular, we believe that FEMA's Rental Assistance Program should be separated from the $25,000 cap on other individual assistance programs. There should also be more flexible use of funds under the cap for home repair. Furthermore, the use of trailers for long-term recovery should be reconsidered. Funding could be better used for home repairs, or as direct assistance to victims to purchase sustainable properties instead of trailers.

Furthermore, we believe that it is essential that there be a cross-walk between the National Response Plan and the Stafford Act. This must include aligning responsibilities with authorities, including financial. While the Stafford Act has proven to be a fair apparatus of Federal response, we believe it is important to make sure that the Federal resources match the Federal plan.

Question 3. FEMA has indicated that the Red Cross will take on the primary role of coordinating missing family services in future disasters. How does the Red Cross plan to work with states, the National Center for Missing and Exploited Children (NCMEC), the National Center for Missing Adults (NCMA) and other non-profit agencies to better coordinate and centralize these services? And what level of resources is the Red Cross committing to prepare for this task?

Response. The American Red Cross and FEMA have discussed the Red Cross role in family tracing and we have worked with FEMA to ensure that the mechanism we have in place, the "Safe and Well" Web site, will allow for information to be shared with FEMA during times of disaster. As this is a voluntary registry, the information on the Web site will be made available to Federal agencies. Furthermore, we welcome the opportunity to share this information with organizations such as the National Center for Missing and Exploited Children and the National Center for Missing Adults as both agencies perform a vital service in helping to reconnect missing loved ones.

Question 4. What support have you received from FEMA and other government entities specifically on the issue of helping displaced persons find their families after a disaster? What support do you think is required to implement a more centralized and coordinated family locator system in the future?

Response. We do not receive assistance from the Federal Government for performing these services, nor have we requested any Federal funds for this purpose. We recognize family tracing services to be a national priority, particularly during times of disaster, and we remain committed to the "Safe and Well" Web site that we have created.

RESPONSES BY ARMOND MASCELLI TO ADDITIONAL QUESTIONS FROM SENATOR VITTER

Question 1. How could the Stafford Act be improved to reduce bureaucracy and red tape for volunteers and other medical professionals who are working to help with response?

Response. As both questions relate to volunteer medical professionals, let me answer both inquiries with one response.

First and foremost, we agree that getting immediate and appropriate medical care following a disaster is an essential component in disaster response. The Red Cross stands ready in administering first aid to victims. However, as our shelters are not set up to offer more complex medical treatment, we appreciate the time and commitment given by volunteer doctors and nurses who sometimes travel a great distance to offer help.

Nevertheless, as in the specific case presented in the second question, modifications to the Stafford Act will not resolve the issue of temporarily prohibiting volunteer medical professionals from practicing in a disaster area until they acquire the proper credentialing and clearance. The Stafford Act is an important tool when the Federal Government becomes involved in disaster response while the states have oversight and authority of licensing medical credentials. Moreover, this particular issue is outside the Red Cross's scope of influence. From our understanding, such matters are usually addressed by reciprocity agreements arranged by participating states or the Department of Homeland Security's National Disaster Medical System.

Question 2. During Hurricane Katrina, there are volunteers who were from Louisiana and have credentials however may have not had the paperwork with them and had to jump through hoops just to help out. The first 12-24 hours is the most critical for disaster response. How can the Act be improved? How can the process be streamlined to get authorizations and approvals in an emergency in as little time as possible?

Response. As both questions relate to volunteer medical professionals, let me answer both inquiries with one response.

First and foremost, we agree that getting immediate and appropriate medical care following a disaster is an essential component in disaster response. The Red Cross stands ready in administering first aid to victims. However, as our shelters are not set up to offer more complex medical treatment, we appreciate the time and commitment given by volunteer doctors and nurses who sometimes travel a great distance to offer help.

Nevertheless, as in the specific case presented in the second question, modifications to the Stafford Act will not resolve the issue of temporarily prohibiting volunteer medical professionals from practicing in a disaster area until they acquire the proper credentialing and clearance. The Stafford Act is an important tool when the Federal Government becomes involved in disaster response while the states have oversight and authority of licensing medical credentials. Moreover, this particular issue is outside the Red Cross's scope of influence. From our understanding, such matters are usually addressed by reciprocity agreements arranged by participating states or the Department of Homeland Security's National Disaster Medical System.

STATEMENT PAMELA MAYER POGUE, CFM, CHAIR, ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC., STATE OF RHODE ISLAND

INTRODUCTION

The Association of State Floodplain Managers is pleased to provide comments and recommendations to the committee. This testimony is based on our experiences and observations about the functioning of the hazard mitigation planning and grant programs that are authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). We appreciate your recognition of the importance of these programs to the Nation's efforts to improve resistance to natural disasters.

The Association of State Floodplain Managers, Inc. (ASFPM), and its 24 Chapters represent over 9,000 State and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance. Many of our members work with communities impacted by Hurricanes Katrina, Rita, and Wilma, or work with organizations that are assisting with the rebuilding efforts. Many of our members are designated by their governors to coordinate the National Flood Insurance Program (NFIP) and many others are involved in the administration of and participation in FEMA's mitigation programs. To learn more about the Association, please visit http://www.floods.org.

A recently released report, "Natural Hazard Mitigation Saves", was prepared in response to a Congressional request that FEMA fund an independent study to assess the future savings of various types of mitigation activities (online at http://www.nibs.org/MMC/mmcactiv5.html). The conclusions state that "a dollar spent on

mitigation saves society an average of $4" and "FEMA mitigation grants are cost-effective, often leading to additional non-federally funded mitigation activities, and have the greatest benefits in communities that have institutionalized hazard mitigation programs."

In a post-Katrina world, we logically have a need to reflect on our Nation's current policies and programs, make a good faith effort to determine where such policies and programs are deficient, and act on those findings. The four hurricanes in Florida in 2004 and hurricanes Dennis, Katrina, Rita and Wilma in 2005 could very well signal a trend towards increasingly violent weather episodes. Indeed, our Nation's climatologists and meteorologists have indicated that we are likely in a cycle of increased weather activity characterized by more frequent and intense storms. Unfortunately, this comes at a time in our Nation's history where there has been a historic migration to our coastlines which are the most likely areas to be impacted from these changes. Before 2004, a number of major coastal storms were considered outliers—freak events of extremely low probability—including Hurricane Camille in 1969 (Mississippi) and Hurricane Andrew 1992 (Florida). However, most people today would hardly see such an event as uncommon and, in fact, many coastal communities and property owners are preparing for such major storms.

Luckily, our Nation has a tremendous capability or respond to, recover from, and mitigate against these disaster events, and the Stafford Act is an important part of this system. The Congress and this committee are at the epicenter of this discussion, with an opportunity to make policy changes that can have importance and relevance far into the future. The ASFPM is encouraged that the committee has taken the initiative to look at the Robert T. Stafford Act and improve upon it.

Thank you for inviting us to offer ASFPM's views. As requested, this testimony addresses:

a. Whether communities and individuals are doing more to prepare for natural/other disasters, and are they implementing mitigation for the negative long-term impacts of such events? Have we made progress on mitigation since the passage of DMA 2000? What changes are needed in DMA 2000 and other areas of the Stafford Act to encourage mitigation actions?

b. Stafford Act authorities and adequacy for catastrophic events such as Katrina, and for response to terrorism-related events such as the use of weapons of mass destruction, bioterrorism.

c. Ten general recommendations for improvements to the Stafford Act.

d. The Impact of FEMA's Reorganization on the Stafford Act Programs ASFPM: Senate Hearing on Stafford Act (July 27, 2006).

COMMUNITY AND INDIVIDUAL PREPARATION FOR DISASTERS AND IS ENOUGH BEING DONE TO MITIGATE THE EFFECTS, ESPECIALLY AFTER PASSAGE OF THE DISASTER MITIGATION ACT OF 2000

On balance, the amendments to the Stafford Act enacted as the Disaster Mitigation Act of 2000 (DMA 2000) have had a positive effect on encouraging and supporting mitigation at both the state and local levels, although its effectiveness clearly has been impeded by the loss of FEMA's independent status and lack of focus on mitigation within the Department of Homeland Security.

It is important to realize that mitigation plans called for in the Disaster Mitigation Act of 2000 that modified the Stafford Act are not emergency response plans, they are focused on how a community incorporates hazards into its development and permitting process and on other actions that may be taken to reduce future disaster losses. All states have met the requirements of the Disaster Mitigation Act of 2000 and have adopted plans, including seven states that have developed and adopted enhanced plans (qualifying them for a larger amount of post-disaster mitigation funding). Many communities have prepared plans to meet the requirements of DMA 2000, and many are in the planning process. These plans may identify specific mitigation projects, but usually they lay out broader objectives that support identification of specific projects when funding becomes available.

FEMA has adopted regulations that require state mitigation plans to be revised every 3 years (every 5 years for local plans). Given the long-term trends in disaster expenditures (especially for damage to public infrastructure and facilities) and the merits of incorporating data about hazards into long-term plans and programs at the State level, it is appropriate that State mitigation plans explicitly address these issues.

• The ASFPM recommends that the committee direct that, as part of the 3-year review of State mitigation plans, States shall:

a. Examine State land use, planning, zoning, and building code requirements (or lack thereof) to identify opportunities to strengthen such requirements or to adopt

such requirements that are determined to be appropriate given the frequency of occurrence of hazard events and the extent and severity of the resulting damage. It ASFPM: Senate Hearing on Stafford Act (July 27, 2006) should be explicit that some amount of grant funds made available for planning may be used by states that identify as a priority the implementation or strengthening of land use, planning, zoning, and/or building codes to reduce future losses.

b. Examine the type, nature, and severity of damages that qualify for Public Assistance in order to identify feasible approaches to reduce such losses in the future, with particular attention to costs associated with the repair of public facilities, roads and bridges, public utilities, and parks and recreational facilities.

STAFFORD ACT AUTHORITY FOR CATASTROPHIC EVENTS

The Stafford Act has proven to be effective for most disasters; however, additional provisions are needed to address the challenges that arise during events that far exceed state and local capacity to respond. An event may be catastrophic on a regional level—as evidenced by Hurricane Katrina—or an event may be catastrophic on a localized level—as evidenced in many decimated communities in the past 30 years. When an event causes that degree of damage, some routine government functions suffer, such as planning, permitting, and inspection and the pre-existing level of local staffing and resources is not sufficient to ensure adequate management of the rebuilding process. The consequence of this shortfall is that often citizens start repairing and rebuilding before safety inspections are conducted and building permits are issued—putting businesses and families back in harm's way. In addition, when an event causes such impacts, disaster assistance (financial and technical) throughout post-disaster recovery may be required for as long as 12 to 24 months.

FEMA/DHS has consistently denied reimbursement of costs associated with private property damage inspections and permitting, despite the Congressional finding in the Stafford Act that "because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity; special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary." The community suffers as a whole when inappropriate development occurs immediately after a disaster.

• The ASFPM recommends that, to address FEMA's policy position, Congress should explicitly provide for reimbursement of costs incurred by communities to perform damage inspections, administration of codes and ordinances, and permitting of repairs and reconstructions when the damage to public and private property exceeds the capacity of the local agency responsible for those functions.

• The ASFPM recommends that when an event causes catastrophic damage, whether regionally or locally, reimbursement of the costs to respond, inspect and permit should be eligible for a period of time of at least 12 months to 24 months, or necessary to guide the community's post-disaster rebuilding and recovery process.

NINE GENERAL RECOMMENDATIONS FOR IMPROVING THE STAFFORD ACT

C–1. Delegation of additional authority for HMGP to qualified states. FEMA has not initiated action to implement sec. 404(c) Program Administration by States (42 U.S.C. 5170c). All States have hazard mitigation plans prepared pursuant to sec. 322; seven have instituted programmatic enhancements necessary to qualify for approval of "enhanced mitigation plans" which qualify them for additional HMGP funding. The enhanced plan states are poised to assume the additional responsibilities and authority that Congress anticipated would be delegated. Although many states are unlikely to seek delegation, especially those that experience relatively few disasters, having one or more of the more active states assume administration of HMGP would yield significant benefits, including faster processing of grant applications and awards and obligation of the program funds. Many of the communities that have very active mitigation programs are in these same states and would greatly benefit from their states assuming additional administrative responsibilities and authority. The Federal Government, including FEMA, needs strong and capable state and local mitigation programs if the costs and suffering of disasters is to be reduced.

• The ASFPM recommends report language expressing the committee expectation that FEMA is to undertake consultation with state and local governments and implement delegation of authority for administration of the Hazard Mitigation Grant Program by a certain date.

C–2. Demolish and rebuild as a mitigation measure. Since hazard mitigation programs have been in effect, much has been learned about what works and what does

not work. New mitigation options are continually being discovered and old mitigation ideas are constantly being evaluated for effectiveness. The Flood Insurance Reform Act of 2004 for the first time specifically cited a newer hazard mitigation option—"demolition and rebuild." This option is based on the premise that some buildings are not structurally sound enough to be raised up onto a higher foundation, and some buildings are more expensive to elevate than to rebuild. In addition, elevating older buildings generally does not result in disaster-resistant buildings because they may not meet current codes for high winds, earthquakes, snow loads, and fire resistance (or energy efficiency). Demolition and rebuild allows replacement with a building of approximately the same size and function. This mitigation measure has been tested in several states and is welcomed by communities that want to retain their neighborhoods and improve their housing stock, and by property owners (even though they often have to commit more of their own funds for this type of project). Despite the success of those projects, FEMA has declined to approve demolish and rebuild projects under the mitigation grant programs authorized by the Stafford Act (except in those communities included in disaster declarations for Hurricanes Katrina, Rita, and Wilma). This is an uneven and unjustified restriction on a successful mitigation measure.

• The ASFPM recommends that the committee direct FEMA to include "demolition and rebuild" (currently referred to as "mitigation reconstruction") among mitigation activities eligible under the mitigation grant programs authorized by the Stafford Act. Demolition and rebuild should be an eligible activity when it is consistent with a community's overall goals, when it encourages safe and livable housing, and when it is determined to be feasible and cost-effective.

C-3. *FEMA should formalize the "expanded planning" concept.* FEMA should be directed to formalize and regularize the "expanded planning" concept now underway in Mississippi and Louisiana. Under this concept, communities with approved mitigation plans can use some of the HMGP funds that are normally set aside for planning (up to 7 percent of HMGP) to refine/define projects, do engineering (e.g., determine if house is sound enough to elevate), prepare Benefit: Cost Analyses, and develop mitigation project applications. Even communities that have an approved mitigation plan rarely have nicely defined projects "on the shelf", and they need support to get concepts from the "big picture" mitigation plan phase to where they're ready to submit applications.

• The ASFPM recommends that the committee should direct FEMA to formalize and institute its policy that allows use of certain Hazard Mitigation Grant Program funds set aside for mitigation planning to be used by States to help communities define projects, develop data, conduct analyses, determine cost effectiveness, and develop applications.

C–4. *Integrate mitigation into public assistance projects.* FEMA has adopted a policy and maintains a list of pre-approved mitigation measures that can be funded under the Public Assistance Program as part of repair for public buildings and infrastructure projects. Despite the presence of this policy, States and communities consistently report that FEMA Public Assistance staff (and its disaster employees and contractors) do not always fully embrace mitigation and reduction of future damage as part of the purpose when reviewing projects that otherwise are eligible for disaster assistance, such as public buildings, infrastructure and critical facilities. FEMA should be reminded that Congress views hazard mitigation as an integral component of disaster response and recovery work that is undertaken as part of FEMA's Public Assistance programs.

• The ASFPM recommends that the committee express its expectation that FEMA, as a part of its public assistance program, shall ensure that its employees and contractors have the necessary guidance and training to identify, assess, formulate and approve feasible and cost effective mitigation measures for public facilities and public infrastructure.

C–5. *Minimum funding for Pre-Disaster Mitigation Technical Assistance.* The Pre-Disaster Mitigation program (PDM) authorized by Sec. 203 of the Stafford Act is a (42 U.S.C. 5131 et seq.) a national competitive grants program managed by FEMA and creates a program that is subject to annual appropriations. After 3 years of this competition, it is abundantly evident that most of the successful applicants have received significant technical assistance to identify projects, develop benefit: cost analyses, and prepare the applications. Thus, many applicants with fewer resources, especially in states that are unable to meet the demand for technical assistance, are less likely to be competitive, despite the merits of their mitigation projects. For those states that have not received HMGP funding in over a decade, or two, PDM funding is the sole source of mitigation planning and project money. Additionally, PDM funding allows the flexibility for states and communities to address multiple natural hazards in a single project or planning initiative.

The Stafford Act provides for a minimum allocation to each state (this provision has been overridden in previous appropriation acts which specifically precluded allocations; the House Homeland Security Appropriations bill for FY07 was amended on the House floor to strike language that waived the State-based allocations).

• The ASFPM urges the committee to support the provision of a minimum allocation to each state to build long-term State capability in hazard mitigation programs in order to support communities and other eligible recipients of mitigation funding. Further, the committee should clarify that a portion of those allocations may be used to provide technical assistance for the planning, project identification, and application development for the PDM grant program.

C–6. *Continue to improve administration and delivery of HMGP.* Now that many of the Nation's high risk communities have predisaster mitigation plans (and a list of pre-identified mitigation projects), they need to have faster access to post-disaster mitigation funding (HMGP). It is common for decisions on applications to be made more than 12 months after a declaration, which leaves communities and property owners in an uncertain environment. Especially for proposed projects that involve private property, an effective and timely program is critical to limit owner investments in repairs of properties that are scheduled for floodplain buyouts. Most states perform a significant amount of review and forward eligible applications with recommendations for funding. FEMA should not take several more months to perform much of the same work.

• The ASFPM recommends that the committee direct FEMA to continue to improve delivery of post-disaster mitigation programs to meet the needs and demands of states and communities that have demonstrated a commitment to mitigation by adoption of mitigation plans. It would be reasonable for the committee to urge that FEMA strive to approve grant applications within 90 days of receipt.

C–7. *Communities that refuse to participate in the National Flood Insurance Program should not be eligible for Public Assistance under the Stafford Act.* Currently, if a community with an identified flood hazard does not participate in the NFIP and thus declines to manage development in areas of known flood risk, its citizens cannot purchase flood insurance and they are ineligible for certain individual disaster assistance. Ironically, the community leaders who make the decision to not participate in the NFIP can still apply for and receive certain public assistance even on facilities that are located in floodplains (other than public buildings). This is not good public policy—it rewards communities that allow at-risk development because they know FEMA will bail them out (with taxpayer funds). And it penalizes communities that do the right thing because they help pay for those who do nothing.

• The ASFPM recommends that the committee clarify that all public assistance for any damaged public buildings and infrastructure located in FEMA-mapped special flood hazard areas is to be withheld from communities that have declined to participate in the National Flood Insurance Program.

C–8. *Restore HMGP to 15 percent as a mitigation incentive.* The demand for post-disaster mitigation funding always exceeds the available funding. Now that more communities have developed predisaster mitigation plans and as the success of mitigation measures throughout the country is highlighted, that demand will only increase. Restoring HMGP to the 15 percent formula (replacing the current 7.5 percent) would significant enhance reduction of future damage at times when communities and property owners are most aware of the benefits—after a damaging event.

• The ASFPM recommends that the formula for HMGP be restored to 15 percent.

C–9. *Authority to increase Federal contribution for hazard mitigation projects.* Under section 404 (42 U.S.C. 5170c), the Federal share of hazard mitigation projects is limited to 75 percent. Under the Public Assistance there are circumstances when the magnitude of a major disaster is so significant that the Federal contribution to repair and recover can be increased to 90 percent. It is appropriate that the same flexibility be authorized for the Hazard Mitigation Grant Program.

• The ASFPM recommends that the committee provide that when the cost-share for Public Assistance is changed, the same change shall apply to HMGP.

THE IMPACT OF FEMA'S REORGANIZATION ON THE STAFFORD ACT PROGRAMS

Prior to being reorganized and incorporated into the Department of Homeland Security in 2003, FEMA was a lean organization. Since the mid-90s it had responded to both natural and man-made events in an effective manner. In fact, the "new" FEMA—as part of DHS—is untested in the area of man-made disasters such as a terrorism event. Why was the agency that effectively handled the Murrah Building bombing in Oklahoma City, the World Trade Center attack in New York City, and innumerable natural disasters quickly reorganized? Also between the mid-90s and 2003, FEMA had built excellent relationships with states and communities; was

able to quickly respond to disasters and decide on policy matters regarding its programs; had a true multi-hazard focus; and had developed a successful track record to accomplish its mission.

The ASFPM was concerned from the beginning that the inclusion of FEMA into DHS would not bode well for the progress the Nation has made in reducing our risk to natural hazards. Unfortunately, there has been mounting evidence that our concerns have been realized. FEMA has gone from a small, independent agency with direct access to the President to just one among many entities in a huge organization. The Nation has gone from "mitigation" being the cornerstone of disaster programs to having the word (and concept) nearly excised from the emergency management lexicon. Even though assurances were made that legacy missions of organizations would continue, terrorism was and is the primary focus of DHS (which ASFPM agrees is the appropriate mission for DHS). State and local emergency managers, especially those in areas prone to recurring natural hazards, are lamenting the "loss" of FEMA and are increasingly vocal about the need to restore FEMA to its previous state.

The following have been and continue to be specific concerns: transfer of specifically-authorized FEMA and NFIP funds to support other DHS functions; detailing FEMA staff out of that directorate; not filling vacant positions throughout FEMA, including senior leadership positions; and extensive delays in FEMA policy decisions and guidance due to an added layer of DHS bureaucracy. In 2004, the ASFPM Board of Directors passed a resolution that FEMA should be taken out of DHS and reinstated as an independent agency.

• ASFPM urges the committee to work to restore FEMA as an independent agency with direct access to the President. Barring that, the committee should (1) Monitor FEMA/DHS to ensure that Disaster Relief Funds and NFIP funds are not spent inappropriately; and (2) Empower FEMA to have enough independence to carry out programs effectively and efficiently.

CONCLUSION

The ASFPM has been a long-time supporter of FEMA's hazard mitigation programs and the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Today, we once again stand at a crossroads—in the aftermath of a catastrophic disaster with an opportunity to refine the Nation's policies for managing disasters of any magnitude. Thank you for the opportunity to provide our thoughts on these important issues. The ASFPM and its members look forward to working with you as we move towards a common goal of reducing the impacts from natural disasters.

RESPONSE BY PAMELA POGUE TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1a. Is there a role today for Federal Government in long-term recovery of areas hit by disaster?

Response. The role of the Federal Government in post-disaster long-term recovery is critical. When a community is impacted by the damage to businesses and private property owners, in addition to public infrastructure, it is understandable that the rebuilding process can quickly become overwhelming. It is at that time that building code and National Flood Insurance Program (NFIP) standards should be implemented, yet frequently, local officials succumb to the political emotional turmoil immediately following the disaster event. If the political and emotional pressures were not enough, the other major challenge faced by local officials in the wake of the disaster is the lack of resources and staff to assist in the post-disaster and rebuilding process.

FEMA plays a critical role in supporting local communities in implementing the NFIP minimum building standards during the recovery phase and supporting them in not allowing reconstruction rules to be waived. This also provides the best opportunity to promote mitigation in post-disaster recovery planning and redevelopment.

In addition to supporting sound redevelopment practices in local communities after a disaster event, the FEMA role is also critical in coordinating efforts such as ensuring that Public Assistance funding used to rebuild public infrastructure work are done in a manner consistent with sound mitigation practices. Additionally housing that must be rebuilt should also implement mitigation and additional resources and funding can be leveraged with State Community Development Block Grant (CDBD) programs. FEMA staffing and expertise can lead the efforts in coordinating these important rebuilding efforts in order to ensure that a community redevelops where it is safe and sustainable.

Question 1b. Is there existing authority for this function?

Response. The FEMA role in post-disaster and long-term recovery is authorized under the auspices of the Stafford Act. Additionally, Congress should look into providing funding and resources to states and local government to allow them to hire personnel with the expertise to manage long-term recovery over an extended period of time necessary to complete all Federally-funded projects.

Question 1c. Do you believe that any expanded role should apply to all disasters or be limited to catastrophic events?

Response. Any expanded role should apply to all disasters. Regardless of the size of a disaster, it can generate damage that may have social, economic and even environmental impacts to a community over the long term. The disaster can continue to generate long-term recovery issues and projects that need top be developed, implemented and managed. Recognize also that each state may manage a disaster differently based on the governmental framework. Also understand that when a catastrophic event occurs, it supercedes the available state capacity and more than likely FEMA will be called upon to provide additional resources and staff to supplement state staff.

Question 2. The report entitled, "Natural Hazard Mitigation Saves", issued in 2005, found that mitigation is most effective when it is carried out on a comprehensive, community-wide, long-term basis, as opposed to through single, unrelated projects. Can you describe your views on how FEMA has implemented that finding since 2005 and any recommendations you may have on policy or legislative changes that should be made to fully implement that finding?

Response. There has not been enough time since the release of the National report to accurately evaluate FEMA's progress on implementing its findings. However, FEMA's efforts which preceded the 2005 Mitigation Report, namely the implementation of the 2000 Disaster Mitigation Act certainly deserves mention. Since the implementation of 2000 DMA, all 50 states have FEMA-approved state hazard mitigation plans, which identify the natural hazards that impact their state, and also an inventory of mitigation projects that can be funded to address those disasters that may impact areas within their state.

While the federally-mandated state mitigation planning initiatives are very critical efforts aimed toward pre-identifying mitigation projects and programs, there continue to be shortfalls in getting mitigation funding out to states and communities to implement mitigation projects due to the restrictive nature of what FEMA deems to be an eligible mitigation project. Unfortunately, FEMA's own evolving body of policies and rules are making hazard mitigation projects more difficult to implement. New and innovative mitigation techniques such as demolish-rebuild (or "Mitigation Reconstruction") are not allowed. This is one of many examples that demonstrate FEMA's restrictive policies on changing scope of work and inflexible timeframes as items that cannot be funded under the Hazard Mitigation Grant Program (HMGP).

Second, the study conclusions indicate that FEMA should do more to count benefits in their models for benefit-cost analysis. Expanded environmental benefits such as the acquisition of open space and preservation of habitats that may also counter negative impacts from storm surge and flooding are not counted at present. Many local and regional mitigation projects in which several different sources of funding have been leveraged are not funded due to the minimization of the value of benefits currently used in the FEMA benefit-cost analysis. Often this results in projects that communities have tried to submit for funding to address the FEMA repetitive loss structure list, but due to the limitations in the FEMA BCA formula these projects are deemed ineligible.

Question 3a. How do you believe the administration of the preparedness functions of the Stafford Act have been or will be impacted by the division of responsibilities between the so-called Preparedness Directorate and FEMA?

Response. This will result in a very severe negative impact. Over the last 25 years emergency management has evolved into a very critical and inseparable four stage cycle: preparedness, response, recovery and mitigation. All are interconnected and must work in concert in a comprehensive fashion for a community to be truly resilient to natural disasters or manmade events. The success of recovery can depend upon how well people were prepared for the event and how effectively the community had been implementing mitigation over the long term in order to minimize the damage from disasters. Even the recovery time and expense can be dramatically curtailed depending upon how well a community implemented sound mitigation projects and practices. Each stage in the emergency management cycle is interdependent and will impact the success and effectiveness of every other phase of emergency management.

Question 4a. Until Hurricane Katrina, there were a very limited number of times during which the Congress diverted from normal procedures under the Stafford Act in the wake of a disaster. After Hurricanes Katrina and Rita, the Congress has enacted a significant number of legislative changes to the Stafford Act that modify the manner in which disaster assistance is provided, and many more proposals are pending. This was a catastrophic disaster worthy of special action, but it is unlikely to be the last of its kind, particularly with the changes we can expect as climate change occurs. What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. This makes sense. Catastrophic disasters such as Katrina or a major earthquake in the New Madrid seismic zone require special planning, exercises, operations and recovery resources and expertise. For example, when a catastrophic event occurs, state and local governments need additional staffing resources for extending periods of time to adequately oversee long-term recovery. A non-Federal 25 percent match is most likely too high when a local economy is 80 to 100 percent destroyed or when a local state economy is severely impacted. In such scenarios special rules extending timeframes and perhaps even waiving or reducing non-Federal match would apply.

Question 4b. What specific provisions of the Stafford Act would you recommend modifying is such a category?

Response. This would take careful thought and consideration which might require a task force or study group of stakeholders to analyze this in greater detail.

Question 5a. The Stafford Act, and the Nation's disaster response, is focused on preparedness and response. There is very little long-term recovery authority in the Stafford Act. Do you believe that there is a role for the Federal Government in this area that should be more developed?

Response. The role of the Federal Government in long-term recovery is very critical. The most important role that Congress can help to support is to clearly articulate and provide additional authority under the Stafford Act for an expanded Federal role in mitigation, both pre-disaster and especially post-disaster to further support the long-term recovery efforts. Long term recovery should include efforts to implement mitigation planning, projects and programs as a means to further reduce future impacts from disaster events in the area impacted. As the national report recently released on the costs and benefits of mitigation indicates, mitigation yields a 4:1 benefit-cost ratio on investments, and therefore needs to become an integral part of the recovery process. This can best be accomplished by providing clear authority to the Federal Government under the auspices of the Stafford Act.

In addition to providing greater authority for the Federal Government to implement mitigation in post disaster recovery, another measure that Congress should pursue in addressing how to improve the Federal role in post disaster recovery operations is to expand the scope of the operations of the Emergency Management Agencies Compact (EMAC). Currently EMAC only addresses response operations during and immediately following a disaster. EMAC operations should be extended in time and scope. For example, EMAC should continue into the post disaster operations for a pre-defined window of time and related to recovery and reconstruction in scope. This would allow state and local officials severely impacted by a disaster to call on experts in other states to assist by supplementing state and local staffs in critical post disaster recovery operations such as permitting and making substantial damage determinations.

Question 5b. Is there currently authority for the Federal Government to perform long-term recovery operations?

Response. Yes, very limited, but needs to be improved by a more defined role for mitigation.

Question 5c. Do you believe that any Federal role should be limited to long-term recovery from catastrophic events?

Response. The role of the Federal Government in long-term recovery should not be differentiated between catastrophic and a "regular" disaster. The Federal role should be more clearly defined and strengthened in all post-disaster events, regardless of size for long-term recovery operations.

Question 6. In your opinion did the Disaster Mitigation Act of 2000 work and what changes should be made to address what, if anything did not work?

Response. As a result of DMA 2000 all 50 states have hazard mitigation plans and many local hazard mitigation plans are now Federally approved. This is significant because all of these plans, per the DMA 2000 planning criteria, identify natural hazards risks and vulnerabilities within the states and communities; describe the

impact of potential damage estimates; outline all relevant state and local hazard related laws, policies and programs addressing hazard mitigation; and identify hazard mitigation projects to be funded to address the natural disaster risks and vulnerabilities that may impact the state and/or local community. Prior to DMA 2000, this information did not exist. While these plans need to be improved over time, updated and modified as disasters occur, it was a solid first attempt in which critical information now exists that will ultimately help community plan for and implement mitigation in order to reduce the damages from natural disaster events. However, communities are much more educated about mitigation and how their jurisdiction may be impacted by natural disaster and what they, as officials, can do to address those potential impacts.

Yet, despite the state and local mitigation planning outcomes now available on a national basis, DMA 2000 has not made implementing the mitigation projects as now identified in the State and Local Hazard Mitigation Plans any easier. If anything, acquiring funding for mitigation project has become even more restrictive and difficult. When a disaster occurs, mitigation projects have now been pre-identified in detail through the hazard mitigation plans, therefore is should be easier to allocate Hazard Mitigation Grant Program (HMGP) funding to implement these projects. However, applying these funds has become more restrictive, the funding to do so has been cut by 50 percent (from 15 percent to 7.5 percent) and the mandated benefit-cost formula which now has to be applied is archaic, and does not accurately reflect the costs or benefits of the projects. Changes need to be made to the benefit-cost formula to accurately depict more benefits which are currently not being counted.

Another change that needs attention is the disconnect between cost share percentages in FEMA funding programs when public facilities and infrastructure qualify for both PA (Public Assistance) and HMGP, This occurs when PA qualifies for a kick up to a 90/10 cost share and HMGP is left at 75/25. Authority should be provided to sync the two for the purposes of matching up mitigation on eligible facilities. These match requirements should be consistent in order to encourage mitigation when rebuilding expensive public facilities and infrastructure.

Additionally, to make sure that all states receive some mitigation funds, the Pre-Disaster Mitigation program should allocate a portion of its funds each year to states for mitigation planning and community resilience building. Although DMA 2000 would permit this as written, the FEMA regulations steer the funds to the competitive grant program.

Question 7. There is much discussion about the level of funding to be provided through the Hazard Mitigation Grant Program under which states are authorized to receive up to 15 percent of the funds to be provided in response to a major disaster for the purposes of hazard mitigation measures. In recent years, this number has been reduced to 7.5 percent through appropriations action. Why do you believe that we really need to raise HMGP back to 15 percent? Does predisaster mitigation do a better job?

Response. Pre-disaster and post-disaster mitigation funding should not be confused. There is a very significant difference between the two. Post-disaster mitigation occurs immediately after a disaster event at a time when a property owner and/or community is most likely to understand and therefore desire to have their property mitigated, such as elevated, moved and/or acquired. Funding is available and once the damage has occurred there is not opportunity for complacency or disbelief that "it won't happen to them." The greatest opportunity to implement mitigation is immediately following a disaster. In a predisaster environment, not only is funding less available, but convincing property owners who have been repetitively flooded and that are in high risk areas that they need to implement mitigation measures is very difficult. At that period of time, conceiving that there may be potential damage to their property is not a high priority. Yet, in a post-disaster situation their world revolves around becoming "whole again." Also understand that predisaster mitigation projects tend to focus on public facilities primarily because it is difficult to get property owners to become involved as they do not think anything will happen to them. Even for public facilities, it can be difficult on a sunny day to gain local government approval for the cost share due to strained local budgets.

As significant, there are many states, such as Rhode Island (where I am the State Floodplain Manager) that have not had a disaster declaration in over 15 years and therefore have not had any HMGP funding available to implement mitigation projects, yet their risks are still extremely high. Unfortunately, mitigation programs such as FMA and PDM have not served these states well as the restrictions are severe enough that any mitigation projects that have been proposed have been deemed ineligible (either because of benefit-cost criteria not being met or because there are

not enough repetitive loss properties to acquire FMA funding). In the case of Rhode Island, the state has been denied funding for FMA projects because the repetitive loss properties do not meet the funding criteria (again the antiquated benefit-cost formula), yet there is old, outdated public infrastructure that repeatedly gets damaged by flooding, and has a greater impact on an entire community as opposed to one repetitive loss homeowner, but does not qualify for FMA funding. Even though Rhode Island has implemented hazard mitigation planning concepts since the early 1990s, has a FEMA-approved State Hazard Mitigation Plan and nearly 93 percent of its communities have FEMA-approved Hazard Mitigation Plans, it has received the least amount of mitigation funding in the country. Yet the risks, vulnerabilities and potential damage costs (per the FEMA HAZUS model) are as severe as other states and some of the largest communities in other areas of the country.

It should also be mentioned that setting up a national competition for PDM funding is inherently unfair on smaller states that have minimal staffing (one person for all of mitigation and NFIP in Rhode Island) when competing against the gigantic staffs of HMGP richly funded larger states with enormous staffing capability.

When comparing and contrasting pre- and post-disaster recovery funding, particularly mitigation Congress needs to keep in mind the financial long-term benefits of mitigation. By applying mitigation funding damages will be reduced from disasters. As the national report produced by the National Institute of Building Sciences (NIBS) reports, investment in mitigation returns a 4:1 benefit, 5:1 specific to flooding. Therefore, cutting any funding opportunities for mitigation will ultimately drive up the costs for Federal Disaster Relief. Decreasing post-disaster mitigation funding is absurd as there is no greater opportunity to replace a damaged structure through mitigation and therefore minimize future damage. Funding for predisaster is critical to those states that while as susceptible to disaster, have not yet been hit but are still trying to implement mitigation so that when they are impacted by a disaster damages can be minimized to the greatest extent possible.

Pre-Disaster Mitigation funding would serve more people more effectively if a portion of PDM funds were allocated to states to support mitigation planning updates and to facilitate development of community resilience. Other agencies addressing manmade disasters are better equipped to address those types of concerns.

STATEMENT OF TAMARA S. LITTLE, CHAIR, LEGAL COUNSEL COMMITTEE, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Thank you Chairman Inhofe, Ranking Member Jeffords, Senator Voinovich, and distinguished members of the committee for allowing me the opportunity to provide you with a statement for the record on the Stafford Act and recommendations for improving the law. I am Tammy Little, the Assistant Attorney General assigned to the Ohio State Emergency Management Agency. In my statement, I am representing the National Emergency Management Association (NEMA), whose members are the state directors of emergency management in the states, territories, and the District of Columbia. Currently, I am in my fifth term as the Chair of the NEMA Legal Counsel Committee. I have over 17 years of experience in emergency management, specifically in legal issues. I am also a certified assessor and assessor team leader for the Emergency Management Accreditation Program (EMAP) and a member of the EMAP Assessor Training Subcommittee.

STATE OF THE STAFFORD ACT

As the Nation continues to address the recommendations of various reports reviewing the preparations for, response to, and recovery from Hurricane Katrina, careful thought must be given to how Congress approaches the Stafford Act. As you know, the Robert T. Stafford Disaster Relief and Recovery Act was enacted "to provide an orderly means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage from such disasters by: . . ." revising and broadening the scope of disaster relief programs; encouraging comprehensive disaster preparedness; achieving greater coordination and responsiveness of disaster preparedness and relief programs; encouraging individuals, States, and local governments to protect themselves through insurance; encouraging hazard mitigation measures to reduce disaster losses; and providing Federal assistance programs for both public and private disaster losses.

The Stafford Act is a law that the members of NEMA hold in very high regard. Major revisions are not necessary since the law provides flexibility for emergency management in this country. NEMA played a very active role during the last major rewrite of the Act, which resulted in the Disaster Mitigation Act of 2000 (DMA2K). NEMA's members implement various Stafford Act provisions routinely within their

states and often serve as their Governor's state coordinating officer as outlined in section 302 of the Act. State emergency management directors are responsible for carrying out the preparedness, mitigation, response, and recovery functions outlined in the Act at the state level and coordinating those functions with their Federal and local counterparts.

NEMA does not support creating a separate or new system solely to address catastrophic disasters. Not only is the Stafford Act nimble enough to handle disasters on a large and small scale, but Congress can and has utilized its ability to make temporary changes to the law particular circumstances warrant. Any revisions to the Stafford Act must be thoughtful, deliberate, and closely vetted through stakeholder groups with proximity to the outcomes, such as NEMA and the members of the Stafford Act Coalition. NEMA's members firmly believe that the Stafford Act has served state and local governments well and that the most persistent problems exist because of inconsistent application of the Act and its accompanying regulations. Policies, guidelines, course materials, and most recently strategies are issued without coordination, a good statutory or regulatory foundation or Congressional oversight. While the Stafford Act is flexible and scalable, it is still the authority for emergency management in the Nation.

For many years, NEMA has provided leadership of a coalition of over 15 national associations that serves to share information on the Stafford Act and to protect the act from major revision without input from those stakeholders. The Coalition agrees on a few basic points: Pre-Disaster Mitigation (PDM) should be fully funded and continually authorized; the Post-Disaster Hazard Mitigation Grant Program (HMGP) formula should be restored to 15 percent of disaster costs; and the Repair Cap for Individual Assistance must be increased.

MITIGATION AND THE STAFFORD ACT

When DMA2K was signed into law, the intent was to create a Pre-Disaster Mitigation Program; create an Interagency Task Force on Pre-Disaster Mitigation; set criteria for an increased Federal share for hazard mitigation measures and allow states to administer the program directly; define management costs eligibility; outline assistance for repair of structures; and update the individual assistance program. Congress made the changes at that time to address a growing need for mitigation assistance before disasters occur and to make refinements to disaster programs that would result in cost-savings for the Federal Government after disasters.

While the legislation took a strong mitigation focus, one example of how the Stafford Act has been side-stepped is to examine how the state of mitigation in our country has changed over the last 6 years. Amendments to law that occurred during the appropriations process reduced the formula for the post-disaster HMGP program from 15 percent of disaster costs to 7.5 percent. In effect, mitigation opportunities were cut by 50 percent since FY 2004. What was intended to be a program that helped to fund every state's predisaster mitigation efforts, has now become a competitive program which favors communities with greater ability to dedicate financial resources to grant applications, engineering, and preservation reviews before a grant application is even considered. On a policy front, mitigation has been marginalized. When the Department of Homeland Security was formed and terrorism became a greater focus, mitigation activities received less focus. Mitigation was initially deleted from early drafts of the National Response Plan and has even less focus in the most recent revisions. The lifecycle of emergency management (preparedness, response, recovery, mitigation) was broken when preparedness was moved from FEMA to create a new Preparedness Directorate within DHS in 2005.

There is some good news that came out of DMA2K. Every single state and many local governments now have plans in place to pre-identify mitigation priorities prior to disasters and have identified which measures may be put in place through PDM and HMGP if a Federal financial assistance is made available. Additionally, some states took on greater responsibility of writing and obtaining approval of "enhanced mitigation plans" that enable states to be eligible for up to 20 percent of disaster costs for post-disaster HMGP by acting in a managing state role for mitigation grants. Currently, seven states have been approved for enhanced plans (two are pending Federal review), but no state has received 20 percent for HMGP post-disaster to date. Ohio had its enhanced mitigation plan approved in May 2005.

As new changes are being considered to the Stafford Act, NEMA asks that the Senate pay particular attention to ensuring mitigation opportunities are increased by fully funding the programs and allowing the important changes made in DMA2K to have the intended effect—reduction of disaster costs to the Federal Government.

ADMINISTRATIVE COSTS

A critical issue facing states regarding the Stafford Act right now has less to do with Stafford Act revisions than with proper reading and interpretation of the current law. Even prior to Hurricane Katrina, accepted uses for the administrative allowance provided by section 406, such as personnel, overtime, and travel for states related to the administration of disaster assistance grant programs have been questioned and rejected. The administrative allowance and management costs for state and local governments are vital to the success of these disaster grant programs and are clearly set forth in the law. This is a significant problem for states in recent disasters and must be resolved. FEMA should follow the plain language of the statute and regulations.

Congress created a mechanism under the Stafford Act to compensate grantees and sub grantees involved in the Hazard Mitigation and Public Assistance Grant Programs for the administrative expenses they incurred related to the assistance programs. That mechanism is found in §§ 406(f)(1) and (f)(2), of the Act, which provides a grant equal to the flat percentage of the final eligible costs as defined under the Act. FEMA regulations directly relating to §§ 406(f)(1) and (f)(2) mirror the Act and do not impose any restrictions upon the use of those funds. The supplemental regulations, 44 CFR §§ 206.228 and 206.439, state that the funds provided to the State or the sub grantees for their administrative costs are, in fact, correctly referred to as an allowance. Several memoranda, audit reports, and draft policies have resulted in FEMA's current policy that the statutory administrative allowance provided to the states can only be used for the three items identified in the Stafford Act even though they are presented as examples. This is simply an incorrect reading of the plain language of the statute and regulation. Federal statutes cannot be changed by policies, memoranda or audit reports and Congressional oversight is necessary to remedy this practice by FEMA.

SUGGESTED CHANGES TO THE LAW

As the Congress examines changes necessary to the Stafford Act, NEMA has several areas identified for immediate improvement.

1. HMGP

The fiscal year 2003 appropriations omnibus package included language to change the formula for HMGP from 15 percent of disaster costs, to 7.5 percent, which has caused degradation of post-disaster mitigation opportunities. Reducing by half the available funding through the disaster relief fund prevents lessons learned from disasters from being immediately incorporated into mitigation projects to prevent future losses of life and destruction of property. HMGP grants are used for such things as rebuilding under more current building codes, purchasing repetitive loss properties, and for other projects that will prevent or minimize the impacts of the next disaster. Mitigation lessons are particularly important to the Gulf Coast as rebuilding begins. Cost-benefit analysis is currently a requirement for predisaster mitigation programs and the recently released independent study from the National Institute of Building Sciences' Multi-Hazard Mitigation Council concludes that for every dollar invested in mitigation, four dollars of Federal benefits accrue—clearly demonstrating that mitigation funds are a sound investment. In a purely competitive grant program, lower income communities, often those most at risk when a natural disaster strikes, will not effectively compete with more prosperous communities. Also, disasters graphically and vividly expose the need for and value of mitigation projects. Less funding means that not only do disaster victims have a harder time recovering economically and socially, but they remain vulnerable to future disasters. We must not lose future opportunities to initiate projects to enhance our communities and reduce future disaster costs. There are not enough mitigation dollars available to address all of the vulnerabilities that exist in this country, but the post-disaster HMGP should at least be restored to the 15 percent of disaster costs prescribed by DMA2K, allowing more communities to participate in important disaster cost reduction projects. That was the original intent of the Stafford Act, as amended by DMA2K.

2. Fixing the Cap on Disaster Costs

A reduction to the Repair Cap for Individual Assistance was erroneously included in DMA2K and has since adversely impacted many disaster victims. The limitation prevents disaster victims from returning to their homes when repair costs exceed the allowable costs, until other funds can be used to make adequate repairs to make the home inhabitable. NEMA supports a technical amendment to DMA2K included in the House passed version of H.R. 3181 from the 108th Congress that would ad-

dress the $5,000 cap on disaster repair or replacement for Individual Assistance. FEMA supports making a change to raise the cap to the previously accepted amount of $15,000 for repair or replacement assistance adjusted for inflation to over $27,000.

Rental assistance should be paid up to a maximum of 18 months at fair market value, with the ability to extend when deemed necessary by the FEMA Director. The provision change would allow for significant cost savings by keeping families out of federally provided housing while repairs are made to minimally damaged homes.

3. Regular-time and Over-time Issues Related to Disasters

State and local governments need to have the ability to utilize Federal assistance to keep state and local personnel working after a disaster. Changes to legislation (44 CFR 206.228 (a)(4)) must clarify that regular time and overtime costs can be paid for vital emergency and disaster support functions through general Federal assistance. In cases of catastrophic disaster, where entities have no further income source, this is particularly important to enable local governments to continue operations related to response and recovery. Also, there are cost benefits to having local or state officials trained in building inspections, health and safety inspections, debris removal, and other fields to respond during disaster response operations.

4. Pre-positioning of Resources Must be an Eligible Expense for all Emergency Management Programs and Grants

State and local governments must be able to utilize funds from emergency management grants such as the Fire Management Assistance Grants (FMAG) and others to pre-position, purchase and stage supplies, resources, and equipment prior to a disaster when warning is given. Having the supplies on the ground reduces response times and costs after the disaster occurs.

5. Reinstate the Mortgage Rental Assistance Program

The Mortgage and Rental Assistance Program was eliminated in the DMA2K. Despite its elimination from the Stafford Act, Congress authorized the program for recent catastrophic disasters such as the September 11, 2001 terrorist attacks and Hurricane Katrina. The program allows for disaster victims to receive Federal assistance to pay for mortgage and rental costs when displaced from their homes in a major disaster. The program should be permanently reinstated and allowed to be used for future disasters as it helps when a disaster causes widespread unemployment but housing stock is maintained. Mortgage rental assistance is critical for community resilience.

6. Declaration Process

NEMA members report that the disaster declaration process has been slower in some cases since FEMA became a part of DHS. Congress should not make changes to the law that will slow the process down, but rather look at ways to ensure disaster declarations may be considered as expeditiously as possible. Other provisions need clarification too. The Stafford Act defines the role of the Federal Coordinating Officer and the law must be followed by DHS. The PFO concept being implemented by DHS is not authorized in law. Additionally, while the declaration process is being considered, Congress may wish to consider revising the definition of "major disaster" to address a biological or chemical terrorism event or even a pandemic influenza outbreak since those incidents may not be considered under the current definition.

7. Mass Evacuation

The Stafford Act does not provide for cost reimbursement for states and localities outside the declared disaster area. While handled during Hurricane Katrina with individual state emergency declarations for states taking in evacuees, the need for mass evacuations into other cities, counties and states will continue to be necessary in catastrophic events. Further, the new FEMA Interim Recovery Policy will allow states to seek reimbursement for expenses, through mutual aid. This process must be addressed by legislation to make clear that emergency declarations should be made by FEMA, as the change to policy will mean an additional burden on assisting states and may cause some states to reconsider participation in mutual aid missions.

8. Post-Storm Assessments

Post-storm assessments are vital data collection tools used to capture perishable hurricane related intelligence such as evacuation survey data, decision tools, shelter issues, and hazards vulnerability. A formalized funding process with consistent funding sources for assessments must be identified. Currently, FEMA is pursuing this information on an ad-hoc basis and allowing FEMA to utilize the Disaster Re-

lief Fund is an authorized use in the Stafford Act. However, legislative changes may be needed to encourage FEMA to take advantage of these opportunities to learn from disasters and improve preparedness, response, recovery and mitigation with solid data.

STAFFORD ACT REGULATORY AND POLICY CHANGES

NEMA has specifically looked at some Stafford Act related issues that do not require changes to the law. Significant need exists for streamlining and simplifying national policy decisions on response and recovery. These policy decisions must be made by educated and enlightened Federal experts in a timely manner during the response and recovery phases and such expertise needs to be built and maintained at the Federal level in support of the state and local activities for recovery.

Some of the changes that must occur on the regulatory and policy levels by FEMA include:

- Uniform, systematic, written, guidance in a clear, timely and meaningful manner that does not vary from region to region;
- Timely notice and training to field personnel and state officials on new or updated guidance and policies;
- A process to approve state management costs within 60 days of a request;
- Clear concise guidance on submission content and evaluation criteria specific to state management costs;
- Administering the Other Needs Assistance Program to address ethnic and cultural diversity issues in accordance with the approved state plan for Other Needs Assistance; and
- Utilizing the State Disaster Mental Health plans as the basis for approving the immediate services grant.

DEBRIS REMOVAL

The committee specifically asked for the witnesses today to address debris removal issues. Hurricane Katrina resulted in numerous disaster specific changes in policy for debris removal. Historically, debris removal is the single issue in a major disaster that creates the most problems and also opportunities for abuse. You will recall the issue of the concrete slab removal in Oklahoma that initiated some of the changes in DMA2K, yet the Gulf Coast states are still struggling with these issues. In fact, FEMA is releasing new debris removal this week as part of larger policy guidance on what will be and what will not be covered in the future.

Our current debris removal reimbursement system is outdated and provides little incentives for state and local governments to take over the management of debris removal. The choices are to use the U.S. Army Corps of Engineers at their prices at up to 100 percent Federal reimbursement or to have to pay a 25 percent cost share if state and local governments want to take over the management of the project. Most state and local governments can utilize public works systems in place and mutual aid to get the job done—often cheaper than the Corps. However, there is no incentive. Thought needs to be given to lowering the state and local cost share for debris removal if the impacted communities are willing to take on these tasks themselves. Additionally, some local governments managing the process in the Gulf Coast have reported the desire to recycle materials removed, yet the Federal Government gets any financial credit for such actions instead of the state or local government completing the work.

Careful thought must be given to the issue of debris removal on private property in emergency situations. Community and homeowners associations properties are not always afforded Category assistance in the early days of an emergency and this assistance varies by disaster and location. In these cases, the associations often maintain the streets and roadways on the private property. Debris removal on private property bubbled up again in the 2004 Hurricane season in Florida and Alabama as the response began in the emergency phase.

We must find some common ground and develop policies that remove the obstacles that prevent us from accomplishing debris removal goals and objectives without compromising the integrity of the program and provide acceptable levels of accountability.

CONCLUSION

With the Nation poised to implement reforms to make our emergency response system stronger, improvements are needed in our disaster laws. I offer NEMA to the committee as a technical resource as you develop legislation and debate the issues mentioned before you today. I thank you for the opportunity to testify on be-

half of NEMA and appreciate your partnership. I hope we can work together to ensure the Stafford Act is strengthened and protected.

RESPONSES BY TAMARA LITTLE TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. During the hearing, in response to my question regarding any changes to the Stafford Act that might be required to ensure that the Federal Government has the appropriate authorities to respond to all types of events, including biological agents, weapons of mass destruction, or epidemics in a coordinated, planned manner, given the definitions of emergency and major disaster in the Act, you indicated that NEMA does not believe that any modifications are required. Given that major disaster declarations are limited to natural disasters or "fire, flood, or explosion, regardless of cause", please describe under what legislative authority you believe the Federal Government would respond to a terrorist event that involved the release of an airborne agent without the use of an explosive device.

Response. Since the hearing, our Legislative Committee has looked closely at the definition of major disaster and we believe that the definition should be modified to include act of terrorism and chemical or biological event. However, the Public Health Emergencies Act should also be triggered in any event impacting health, as the Stafford Act does not address some of the public health tools that will need to be put in place after such an event.

Question 2. What are your recommendations with regard to the potential creation of a "third category" of declaration under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. NEMA does not support creating a separate category for catastrophic events. A clear definition of catastrophe must be developed by Federal, State, and local practitioners before any legislation can be written, because otherwise every event will result in impacted states seeking a catastrophic declaration.

Question 3. Do you believe that there is a role today for the Federal Government in long-term recovery of areas hit by disaster, whether there is an existing authority for this function, and whether you believe that any expanded role should should apply to all disasters or be limited to catastrophic events?

Response. There is definitely a role for the Federal Government in long-term recovery especially with major catastrophic disasters like Hurricane Katrina or Hurricane Andrew, the 9/11 terrorist attacks, the North Ridge and Loma Prieta earthquakes. FEMA has statutory authority for assistance with recovery work, but in these cases other Federal agencies like Housing and Urban Development, Labor, and others will have to play a role. FEMA's role in mitigation and looking at how to rebuild to mitigate future disasters must be continued. States should have the lead though. Congress has the ability to broaden this authority for these catastrophic events, but this should not apply to each and every disaster.

Question 4. The report entitled, "Natural Hazard Mitigation Saves", issues in 2005 found that mitigation is most effective when it is carried out on a comprehensive, community-wide, long-term basis, as opposed to through single, unrelated projects. Can you describe your views on how FEMA had implemented that finding since 2005 and any recommendations you may have on policy or legislative changes that should be made to fully implement that finding?

Response. NEMA supports the 2005 report and the cost-benefit ratios produced in the report for mitigation. FEMA has yet to implement that finding and they are currently working with State hazard mitigation officers to develop guidance for a unified hazard mitigation grants system that will address the comprehensive approach. At this point, we are working closely with FEMA. The only policy change that must be considered is a way to make eligible at the front end of the grant-making process the administrative costs for technical reviews, engineering reviews, and historical preservation that are currently outlayed in order for an application to be considered.

Question 5. Has the administration of preparedness functions of the Stafford Act been impacted by the division of responsibilities between the so-called Preparedness Directorate and FEMA? Do you believe it will be impacted in the future?

Response. FEMA currently retains the Stafford Act authorities in law. While NEMA remains concerned that preparedness functions have been separated from response and recovery functions, the larger issue is how the Stafford Act is administered in a larger department where additional layers of bureaucracy can slow down disaster declarations, policy and other changes to the Stafford Act. The FEMA Di-

rector, as the key Stafford Act administrator, must have the ability to work directly with the President during times of disaster to prevent these delays.

Question 6. Some believe that the use of pre-existing debris removal contracts at either the local, State, or Federal level could speed debris clean-up post-disaster. Please describe any experience that states have had using pre-existing debris contracts and whether they have expedited clean-up at a lower cost.

Response. The NEMA President from Alabama reports that most Gulf Coast states are utilizing this approach in the current year, though fortunately the contracts have not had to been exercised because of the lack of storms.

Question 7. Do you believe that there should be an enhanced role in major disasters of in catastrophic events for debris clean-up that creates an authority for the Federal Government to conduct clean-up without the request of a State or local government?

Response. Under no circumstances, does NEMA believe the Federal Government should have the right to take away the authority of State and local governments to request assistance on their own or control the state's own response and recovery operations. Federal assistance should be just that—Federal assistance.

Question 8a. Until Hurricane Katrina, there were a very limited number of times during which the Congress diverted from normal procedures under the Stafford Act in the wake of a disaster. After Hurricanes Katrina and Rita, the Congress has enacted a significant number of legislative changes to the Stafford Act that modify the manner in which disaster assistance is provided, and many more proposals are pending. This was a catastrophic disaster worthy of speciation action, but it is likely to be the last of its kind, particularly with the changes we can expect as climate change occurs.

What are your recommendations with regard to the potential creation of a "third category of declaration" under the Stafford Act that would be reserved for catastrophic events, for which special rules would apply?

Response. NEMA does not support creating a separate category for catastrophic events at this time. A clear definition of catastrophe must be developed by Federal, State, and local practitioners before any legislation can be written, because otherwise every event will result in impacted states seeking a catastrophic declaration. Congress has the ability to make changes to the Stafford Act based on individual needs for each disaster.

Question 8b. What specific provisions of the Stafford Act would you recommend modifying in such a category?

Response. NEMA strongly recommends addressing the repair and replacement cap and updating the cap to address the current need. NEMA also calls on Congress to restore the 15 percent formula for post-disaster Hazard Mitigation Grant Program for all states.

Question 9. Section 603 of the Stafford Act specifies that preparedness functions shall be carried out by the Director of FEMA. Section 430 of the Homeland Security Act specifies preparedness authorities for the Office of Domestic Preparedness within DHS dealing with terrorism. DHS has apparently transferred preparedness functions away from FEMA, which appears to conflict with the statutory requirement in section 603 and to exceed the authorities granted under the Homeland Security Act. Please explain.

Response. You are correct, both FEMA and ODP (or the Office of Grants and Training now) have statutory authority. However, DHS submitted a plan to Congress last summer as the Second Stage Review for DHS that created a Preparedness Directorate and moved the preparedness functions away from FEMA. Congress agreed with those changes in the FY 2006 Homeland Security Appropriations bill and the new plan was shortly implemented. A key emergency management official, George Foresman, was appointed as the Preparedness Under Secretary and he is making strides to link preparedness with response and recovery within DHS, however we are watching this issue carefully.

Question 10. Title VI of the Stafford Act authorizes FEMA to assist states in negotiated interstate emergency preparedness compacts. Who is responsible for this function, section 611 (h) of the Stafford Act, under the new organization, and what actions have been taken in the Gulf States to improve the utilization of mutual aid compacts?

Response. We are currently working with both FEMA and the Preparedness Directorate, since the issue could impact natural disasters or other disasters. For Hurricane Katrina and Rita, the Emergency Management Assistance Compact (EMAC) has fulfilled over 2174 missions with 49 states, the District of Columbia, the U.S.

Virgin Islands and Puerto Rico providing assistance in the form of 65,919 civilian and military personnel and equipment assets to support the impacted states. The estimated costs of this assistance may exceed $829 million. EMAC is currently completing an After-Action report on state-to-state mutual aid and we will be happy to share those results with you once the report is final. In the meantime, NEMA formed an Advisory Group of a variety of State and local emergency response associations and State and local governments to explore some of the issues that need attention, such as sharing information on the EMAC system with elected officials and emergency response disciplines.

Question 11. In your opinion, did the Disaster Mitigation Act of 2000 work and what changes should be made to address, what if anything did not work?

Response. Overall, every State now has a comprehensive mitigation plan on the books and many local governments also did. However, the change in HMGP that followed DMA2K changed the approach to mitigation splitting the difference, rather than looking at enhancing all mitigation opportunities. NEMA strongly recommends addressing the repair and replacement cap and updating the cap to address the current need. NEMA also calls on Congress to restore the 15 percent formula for post-disaster Hazard Mitigation Grant Program for all states.

Question 12. There is much discussion about the level of funding to be provided through the Hazard Mitigation Grant Program (HMGP) under which states are authorized to receive up to 15 percent of the funds to be provided in response to a major disaster for the purposes of hazard mitigation measures. In recent years, this number has been reduced to 7.5 percent through the appropriations action. Why do you believe that we really need to raise HMGP back to 15 percent? Does predisaster mitigation do a better job.

Response. Effective mitigation requires a balanced and comprehensive approach. Predisaster mitigation has been doing a good job of providing mitigation opportunities to communities that have not experienced disasters. The program is based in prevention activities. However, the program is slanted to give more opportunities to larger more wealthy communities and states, because so many administrative costs are required on the front end of the application process. However, we strongly believe that post-disaster opportunities are being lost because of the formula cut to HMGP. A 100-year flood or storm like Hurricane Katrina provides unique mitigation opportunities to take the lessons learned and apply them when rebuilding. It is also easier to get community buy-in after a major disaster for the program, since there is a cost-share. In the long-term mitigation saves in disaster costs outlayed by the Federal Government.

Question 13. Can you give me a sense of how mitigation is working in this country right now and how it can be improved? What specific changes can Congress make to put mitigation on the right track?

Response. FEMA is looking at a unified mitigation grants system, which will be a great opportunity to look at mitigation holistically. Continued Congressional oversight to ensure State and local input into policy changes is helpful, but NEMA also calls on Congress to restore the 15 percent formula for post-disaster Hazard Mitigation Grant Program for all states.

Note: Questions 14 and 15 are duplicate questions for 4 and 9, respectively.

RESPONSES BY TAMARA LITTLE TO ADDITIONAL QUESTIONS FROM SENATOR CLINTON

Question 1. Some questions have been raised regarding contracting procedures at both local and Federal levels. Some believe that pre-existing debris removal contracts reduce overall disaster clean-up costs and speed the pace of removal. On September 15, 2005, the Army Corps awarded four fixed price contracts for debris removal in the areas affected by Hurricane Katrina. Each of these contracts has a value of up to $500 million each, with the option of an additional $500 million. Each contract requires the contractor to submit a subcontracting plan with the goal of including the following participation: 73.5 percent for small business, 3 percent for Service-disabled veterans, 3.2 percent for Small HUB-Zone concerns, 10.6 percent for Small Disadvantaged business, and 11 percent for Small Women-owned business. The Corps issues an open announcement for these contracts through the Army Corps of Engineers, Memphis Web site. The Corps shortened the time available to respond to the announcement in light of the urgent need for debris removal services; however despite the shortened time period, the Corp received 22 proposals.

Do you believe that there should be an enhanced role in major disasters or in catastrophic events for debris clean-up that creates an authority for the for the Federal Government to conduct debris clean-up without the request of a local government?

Response. Under no circumstances, NEMA believes the Federal Government should have the right to take away the authority of State and local governments to request assistance on their own or control the state's own response and recovery operations. Federal assistance should be just that—Federal assistance that works cooperatively with State and local governments at their request.

Question 2. Some believe that the use of pre-existing debris removal contracts at either the local, State, or Federal level could speed debris clean-up post-disaster. Please describe any experience that states have had in using pre-existing debris contracts and whether they have expedited clean-up at a lower cost?

Response. I cannot speak from my experience in Ohio on this issue, however, the NEMA President from Alabama reports that most Gulf Coast states are utilizing this approach in the current year, though fortunately the contracts have not had to been exercised because of the lack of storms. Bruce Baughman of Alabama reports that most State and local governments are capable of doing and managing some of the work themselves, however there is a larger cost-share and a disincentive to doing that work. State and local governments would rather retain control of the process in some cases though.

Testimony to the
U.S. Senate Committee on Environment & Public Works

Mark Shriver
Vice President and Managing Director for U.S. Programs
Save the Children
July 27, 2006

Mr. Chairman and members of the committee, my name is Mark Shriver and I serve as Vice President and Managing Director for U.S. Programs at Save the Children. I want to thank you for this opportunity to present testimony for the record on the unique needs of children in disasters and how the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hence the Stafford Act) can be strengthened to address these needs.

The effects of Hurricane Katrina have been widespread and long-lasting, directly affecting 1.5 million people and leaving thousands of individuals without homes. While all victims of the hurricane have faced great difficulties in recovering from the disaster, none have been as vulnerable as children. In the immediate aftermath, more than 1,000 schools were closed, preventing over 372,000 children from attending school. More than 400,000 children under the age of five live in or were evacuated from areas that were declared disaster areas by the Federal Emergency Management Agency (FEMA) and 5,192 children were reported to the National Center for Missing and Exploited Children as missing or displaced. Many children are still living in transitional housing camps nine months after the devastation began.

Recognizing this unacceptable situation, Senators Thad Cochran and Mary Landrieu introduced Senate Concurrent Resolution 94 expressing the sense of Congress that the needs of children affected by major disasters are unique and should be given special consideration in disaster preparedness, response, recovery, and mitigation activities and that FEMA should consult with appropriate child-focused non-governmental organizations with experience in this area. I have attached a copy of the Resolution to my testimony.

Within days of Hurricane Katrina's landfall, Save the Children staff members were on the ground. Our staff came from having recently managed our emergency programs for children in the aftermath of the December 2004 tsunami and in conflict areas in Sudan's West Darfur State and Iraq. Our first action was to distribute "safe spaces" kits including educational and recreational supplies for children in shelters in Baton Rouge and along the Mississippi Gulf Coast.

This initial assistance was followed by organizing emergency child care and support for the re-opening of schools, afterschool programs and child care centers. Save the Children forged strong relationships with State education officials, universities and local community organizations in Alabama, Louisiana and Mississippi – relationships that helped us leverage

our resources and extend our reach to young survivors and served as the foundation for our presence in these States.

To date our recovery work includes:

- Our Safe and Protective Communities Project, through which we are working to protect children's well-being in transitional housing communities based on an assessment of conditions and needs in 20 communities Save the Children staff visited between February and April. We are partnering with FEMA to pilot the initiative at the Diamond Group site in Plaquemines Parish Louisiana.
- A partnership with Chevron USA and the Early Childhood Institute at Mississippi State University to rebuild the child care infrastructure in Harrison and Hancock (MS) counties by restoring and enhancing the quality of 33 licensed child care centers. We project that over 2,500 child care slots will be made available in Harrison County alone – a vital resource for working families who require child care in order to return to work and those in temporary accommodations whose children need a daily respite from such uncertain surroundings.
- Creation of hurricane-preparedness activities for children and parents in addition to our financial support for summer camp activities for 13,000 children. The children's module assists youngsters in producing a child-friendly evacuation kit. For parents, we provide information on how to help children feel safe, how to create a family disaster plan, tips for packing an emergency kit and how to manage their own stress.
- A structured, school-based psychosocial support program that over 10,000 children have completed and for which we have trained over 1,000 adults. Focusing on children's need for safety and trust, the program seeks to normalize reactions to abnormal circumstances through children's participation in sessions that use consistent, structured play and expressive activities to rebuild a sense of safety and control.
- A "care for caregiver" program that has helped over 450 teachers and childcare providers deal with their own losses.

Through our work responding to Hurricane Katrina in Alabama, Mississippi and Louisiana, we noted the following shortcomings:

- Federal, State, and local government emergency management professionals lack a thorough understanding of the unique needs of children that need to be considered in disaster management programs. Few, if any, emergency operations plans account for children's physical, emotional and psychological needs in the immediate aftermath of a disaster.
- Existing legislative constraints on Federal disaster response and recovery aid programs restrict disaster officials from responding to the specific needs of children in a disaster. While FEMA relief programs fund temporary housing and the rebuilding of schools and other community infrastructure crucial for serving children, FEMA cannot fund recreational and educational programming for children in the transitional housing camps nor can FEMA fund afterschool and

summer camp programs for children. These types of programming provide invaluable help to children and their families in the recovery process.

- FEMA funds temporary housing for individuals and families whose homes have been destroyed. For many families impacted by Katrina that means a travel trailer in a transitional housing camp. Under the Stafford Act, FEMA is responsible for securing the land for the camp, securing and installing the trailers, and camp management. Our assessment of the camps identified significant problems with the siting and the design of the camps that put already vulnerable children at greater risks, with a lack of communal space for families in the camp and we found few programs available that focused on the educational and recreational needs of children.
- The majority of child care providers in Harrison and Hancock counties in Mississippi do not qualify for disaster relief funding from FEMA's Public Assistance program and either do not qualify for disaster loans from the Small Business Administration, or are reluctant to take on additional debt. In almost all cases, their insurance money, if it came at all, was not sufficient to return their child care facility to service. The availability of quality child care is a critical step in the recovery of any community from any disaster but especially one as devastating as Hurricane Katrina.

Recommendations

Children are extremely vulnerable during a disaster. While addressing the needs of children who have been impacted by Katrina is our immediate priority, we must take action to mitigate the impacts of future disasters on our children. We propose the following changes to the Stafford Act:

- Provide authority that recognizes the unique needs of children in disasters and designate the provision of child care as an essential service in the aftermath of a disaster.
- Provide authority under the Stafford Act that allows FEMA the flexibility to provide additional services that support children's health and welfare in delivery of temporary housing especially at temporary mobile home sites
- Provide authority to allow disaster grant funding to be made available to States and local governments to fund psychosocial training for school officials, to work with child care providers to audit their facilities and take steps to reduce damage from the next disasters, and to review each facility's emergency plans to ensure the safety of their children when the next disaster strikes.

In addition, we would propose that the Committee provide to FEMA and the other Federal, State and local partners that implement the programs authorized under the Stafford Act the following guidance:

- Emergency plans should integrate children's issues—from their basic security and well-being in temporary shelters to the continuation of their education—and should include programs that protect children and assist them through the aftermath of a

crisis, into recovery and back to stable communities. The roles and responsibilities of federal, state and local government agencies, as well as local organizations, should be well-delineated.

- FEMA should apply internationally accepted standards for delivery of humanitarian assistance particularly as it relates to establishing temporary housing facilities and camps. These include the *SPHERE Humanitarian Charter and Minimum Standards in Disaster Response* and the *INEE Minimum Standards for Education in Emergencies, Chronic Crises and Early Reconstruction.*

Mr. Chairman, Save the Children is ready to work closely with you, your Committee and your staff to shape a national emergency management capability that best serves the needs of children and their families. Thank you again for this opportunity to discuss the unique needs of children in disasters and what can be done through the Stafford Act to mitigate the impact of such events in the future.

109th CONGRESS
2d Session
S. CON. RES. 94

Expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States.

IN THE SENATE OF THE UNITED STATES

May 11, 2006

Mr. COCHRAN (for himself and Ms. LANDRIEU) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs

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CONCURRENT RESOLUTION

Expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States.

Whereas major disasters resulting in Presidential disaster declarations in the United States have increased from an average of 38 per year in the 1980s, to 46 per year in the 1990s, to 52 per year during the first half of this decade;

Whereas the occurrence of major disasters in the United States is expected to continue to increase in the foreseeable future;

Whereas the number of people in the United States affected by disasters each year is a staggering 2,000,000 to 3,000,000 as measured by the Federal Emergency Management Agency (even outside of truly catastrophic events as occurred on the Gulf Coast in 2005);

Whereas 5,192 children were reported missing or displaced to the National Center for Missing & Exploited Children as a result of

Hurricanes Katrina and Rita, and it took 6 1/2 months to reunite the last child separated from her family;

Whereas the most serious of such cases were those 45 children arriving at shelters separated from parents or guardians with no adult supervision and it took more than 1 month to resolve all of those cases;

Whereas 1,100 schools were closed immediately following Hurricane Katrina and 372,000 schoolchildren were initially unable to attend school in New Orleans and the Gulf Coast due to the hurricane;

Whereas in Mississippi 7 percent and in Louisiana 21 percent of elementary schools and secondary schools remained closed 6 months after Hurricane Katrina;

Whereas more than 400,000 children under the age of 5 live in or have evacuated from counties or parishes that have been declared disaster areas by the Federal Emergency Management Agency;

Whereas the numbers of licensed child care facilities in areas affected by Hurricanes Katrina and Rita declined by 4 percent (54 facilities) in Mississippi and by 25 percent (356 facilities) in Louisiana after the storms;

Whereas children are known to benefit from rapid mental health programming following disasters to mitigate longer term impacts;

Whereas the existing system of disaster management in the United States is the purview of Federal, State, and local government emergency management organizations and the disaster management programs and activities of these organizations are not mandated nor are able to fully respond to the unique needs of children;

Whereas Federal, State, and local government emergency management professionals lack the technical knowledge, support, and contacts to address the unique needs of children that need to be incorporated into such professionals' disaster management programs and activities; and

Whereas existing legislative constraints on Federal disaster response and recovery aid programs restrict disaster officials from responding to the specific needs of children in a disaster and there is no government

liaison or program concerning children's issues in disasters: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that--

(1) the needs of children and youth affected by major disasters are unique and should be given special consideration in planning, responding, and recovering to major disasters; and

(2) the Federal Emergency Management Agency should consult with appropriate child-focused non-governmental organizations and public university national research centers with experience in addressing the needs of children in major disasters to address the needs of children and youth in disaster preparedness, response, recovery, and mitigation, including by--

(A) incorporating suggestions from such organizations on children's issues into the National Response Plan;

(B) seeking the recommendations of such organizations on how to address the needs of children in emergency shelters, trailer parks, and transitional housing sites;

(C) jointly developing child-, family-, early childhood service-, and school-focused disaster preparedness materials to support understanding of the impact of disasters on children and strategies to mitigate them; and

(D) jointly developing risk assessment tools for communities to use in determining children's specific disaster risks.

New York Daily News - http://www.nydailynews.com

Abandoned heroes

Sunday, July 23rd, 2006

They rallied for New York and America in the terrible hours after the World Trade Center collapsed - and ever since, thousands have paid with their health. Some have given their lives.

Forty-thousand-strong, they labored at Ground Zero under miserable conditions in a time of crisis, working 10 and 12 hours a day to search for the lost, extinguish underground fires and haul off 2 million tons of rubble. As a direct result, well over 12,000 are sick today, having suffered lasting damage to their respiratory systems.

In increasing numbers, they are the forgotten victims of 9/11. The toll has risen steadily over the past five years, yet no one in power - not Gov. Pataki, not Mayor Bloomberg, not the state and city health commissioners, not the U.S. government - has acknowledged the epidemic's scope, much less confronted it for the public health disaster that it is.

They cough.

They wheeze.

Their heads and faces pound with the pressure of swollen sinuses.

They lose their breath with minor exertion.

They suffer the suffocation of asthma and diseases that attack the very tissues of their lungs.

They endure acid reflux, a painful indigestion that never goes away.

They are haunted by the mental and emotional traumas of having witnessed horror.

Many are too disabled to work.

And some have died. There is overwhelming evidence that at least four Ground Zero responders - a firefighter, two police officers and an Emergency Medical Service paramedic - suffered fatal illnesses as a consequence of inhaling the airborne poisons that were loosed when the pulverized remains of the twin towers erupted seismically into the sky.

The measure of how New York and Washington failed the 9/11 responders starts with the fact that after a half-decade, no one has a grip on the scope of the suffering. The known census of the ill starts at more than 12,000 people who have been monitored or treated in the two primary medical services for Ground Zero workers, one run by the Fire Department, the other by the World Trade Center Medical Monitoring Program based at Mount Sinai Medical Center.

In the Fire Department, more than 600 firefighters - soon to be 700 - have been forced into retirement because they were deemed permanently disabled. Most suffer from asthma that disqualifies them from battling blazes. And fully 25% of the FDNY's active fire and EMS forces have lung-related conditions - more than 3,400 people in all.

At the Mount Sinai program, where physicians are monitoring the health of 16,000 cops,

construction workers and others, Dr. Stephen Levin estimates that from half to two-thirds of the patients are similarly sick. That works out to at least 8,000 people and pushes the tally of the ill over 12,000.

The count goes up from there among the thousands of responders who are not enrolled in either program. How far up, nobody knows. But doctors are all too aware that the general prognosis for the sick is not good. While treatment has helped many to improve, few have regained their health.

"I think that probably a few more years down the road we will find that a relatively small proportion will be able to say, 'I am as good as I was back on Sept. 10, 2001,' " said Levin.

Typical is the case of NYPD Officer Steven Mayfield, who logged more than 400 hours at the perimeter of what became known as The Pile and suffers from sarcoidosis, a disease that scars the tissues of the lungs; shortness of breath; chronic sinusitis, and sleep apnea. "My lungs are damaged; they will never be the same," said Mayfield, 44.

Still more frightening: Serious new conditions may soon begin to emerge. Top pulmonary specialists say lung-scarring diseases and tumors generally begin to show up five to 20 years after toxic exposure, a time frame that's about to begin.

Some responders have received excellent care. The FDNY's medical service, led by Dr. Kerry Kelly and Dr. David Prezant, has delivered first-rate monitoring and treatment to more than 13,700 active and retired firefighters and EMS workers. But the rest of the Ground Zero responders have not been nearly so well served.

Most of them - from police to construction workers - are eligible for monitoring and treatment through the Mount Sinai program. The center's leaders, Dr. Robin Herbert and Levin, are among the world's experts in occupational health, but they have been badly hobbled by a lack of funding. The wait for treatment is four months, and doctors are able to schedule followup appointments less frequently than they would like.

In even worse shape are an estimated 10,000 federal workers who participated in the Ground Zero effort. The government promised to create a program specially for them, and then reneged. The federal workers are on their own.

The big lie

The betrayal of the 9/11 responders began with a lie that reverberates to this day.

When the twin towers collapsed, the remains of 200,000 tons of steel, 600,000 square feet of window glass, 5,000 tons of asbestos, 12,000 miles of electric cables and 425,000 cubic yards of concrete crashed to the ground and then spewed into the air. To the mix were added 24,000 gallons of jet fuel burning as hot as 1,300 degrees.

At The Pile, the air was "darker than a sealed vault and thicker than pea soup," in the description of one deputy fire chief. But officials pronounced that would-be rescuers were safe.

As then-U.S. Environmental Protection Administrator Christie Whitman put it in a press release on Thursday, Sept. 14, 2001: "Monitoring and sampling conducted on Tuesday and Wednesday have been very reassuring about potential exposure of rescue workers and the public to environmental contamination." Two weeks later, Mayor Rudy Giuliani said rescue workers faced

minimal risk because the air quality was "safe and acceptable."

In truth, those who rushed to the scene were at the epicenter of "the largest acute environmental disaster that ever has befallen New York City," according to a 2004 analysis by several dozen scientists in the journal Environmental Health Perspectives. In truth, every breath at Ground Zero was noxious to health and even to life.

A cauldron of toxins

The Environmental Health Perspectives report cited the presence in the air of highly alkaline concrete dust, glass fibers and cancer-causing asbestos, as well as particles of lead, chlorine, antimony, aluminum, titanium, magnesium, iron, zinc and calcium. The flaming fuel and burning plastics released carcinogens including dioxins, polycyclic aromatic hydrocarbons, polychlorinated biphenyls and polychlorinated furans.

Almost immediately, the toxic cloud began burning the lungs of the responders because most were not provided with, or did not wear, proper respiratory protection. Hundreds soon started coughing up pebbles and black or gray phlegm, and, for most, symptoms steadily worsened.

The false assurance of safety and the failure to adequately equip the workers has opened the city and its construction contractors to potentially huge liability. More than 8,000 responders have joined a lawsuit that has targeted a $1 billion federal insurance fund established after 9/11 to facilitate the recovery work. So the lawyers, not the doctors, have taken charge.

The city's chief attorney, Corporation Counsel Michael Cardozo, says, for example, that he is confident Ground Zero workers have been provided with appropriate medical attention and disability benefits. This may be wise to argue for the purpose of limiting liability, but it's destructive denial as a public health strategy.

Never did the state health commissioner, Dr. Antonia Novello, or the city health commissioner - Dr. Neal Cohen in the days immediately after 9/11, Dr. Thomas Frieden since January 2002 - step forward to lead a crusade that marshaled the resources of New York's vast public and private health systems.

Nor did Cohen or Frieden ever issue protocols advising physicians on recognizing and treating syndromes generated by World Trade Center exposures. Inexcusably, Cohen failed to disseminate advisories at a time when the Giuliani administration was declaring all was safe at The Pile, and Frieden's staff is only now getting around to completing its first bulletin.

Nor did the Police Department establish a system for tracking the prevalence of illnesses such as asthma among the thousands of cops who worked at The Pile. The police surgeon, Dr. Eli Kleinman, says he believes there hasn't been more than "a blip" in lung-related ailments - which would be a truly remarkable outcome compared with the 25% of the Fire Department that is counted as having 9/11 aftereffects.

The city Health Department in 2003 did establish the World Trade Center Health Registry, inviting people who worked at Ground Zero or lived in the area to report their health conditions. More than 71,000 provided information, and the department is in the midst of conducting a followup survey. The data are likely to prove highly valuable when the department finishes crunching the numbers. But that milestone is planned for next year, astonishingly long to wait when the unaddressed needs of the sick have been building since 2001 and are so large at this very moment.

Frustrated by the response to 9/11-related illnesses, Reps. Carolyn Maloney and Vito Fossella in February won the appointment of Dr. John Howard as federal Ground Zero health coordinator. Howard's valuable presence should be taken as a rebuke to all the local officials who allowed this health crisis to fester for half a decade.

But Howard is hardly the solution. As director of the National Institute for Occupational Safety and Health, the doctor has a schedule that is quite booked. Nor does Howard have the capacity to *do* a great deal. He has no special budget and no special staff, and he can only study and recommend. Far more is required.

A cry for leadership

What's urgently needed is dynamic leadership by someone with the muscle and brains to tackle the World Trade Center health crisis on all fronts - medical, legal, social, political and more. The person who best fits the bill today is Michael Bloomberg.

As the 108th mayor of the City of New York, Bloomberg commands vast municipal resources, occupies an unparalleled bully pulpit from which to prod other levels of government, has a deep, long-standing commitment to public health and, most important, knows how to get things done. And it is simply inconceivable that he would not act were he to inquire deeply into the facts.

Were the mayor to ask Herbert and Levin, he would find out that Mount Sinai's doctors succeeded only this year in getting the okay for the first federal funding for treatment, that patients frequently arrive at Mount Sinai after being misdiagnosed or improperly treated by family physicians and that Ground Zero responders are seeking help in increasing numbers because they haven't gotten better with time or have developed new illnesses.

Were the mayor to speak with Dr. Alison Geyh, assistant professor at his namesake Johns Hopkins Bloomberg School of Public Health in Baltimore, he would learn that a program aimed at tracking the health of Ground Zero's "invisible" recovery workers - heavy equipment operators, sanitation workers, truck drivers and laborers - stopped for lack of money after less than two years.

"It took a year to get this labor-intensive project up and running, only to have its funding stream cut off 18 months later," said Geyh. "It's been frustrating and a lost opportunity."

Were the mayor to talk to Kelly and Prezant at the Fire Department, or to Herbert and Levin at Mount Sinai, or to their colleague Dr. Alvin Teirstein, an eminent lung specialist, he would hear calls for long-term monitoring for cancers and other diseases that could emerge among Trade Center responders in the coming years.

And, were the mayor to spend time with any of the 8,000 responders who are suing the city, he would hear the voices of fury and fear. Their anger is well grounded in that they were lied to, but it is far less clear that each of their illnesses, among them brain and blood cancers, is attributable to Ground Zero exposures. Still, lacking authoritative, trustworthy information, they live under agonizing shadows.

It is vitally important for Bloomberg to take charge.

To take the full measure of this growing epidemic.

To devise appropriately funded treatment programs so that all 9/11 responders have access to

the quality of care provided to firefighters.

To establish monitoring systems that can detect swiftly the emergence of new diseases or improved treatments.

To create a clearinghouse that would inform workers and physicians about illnesses and proper treatments, and keep them up to date on the latest developments.

To begin to acknowledge that service after 9/11 did, in fact, cause fatalities, rather than let city officials keep insisting that there is no absolute, total scientific proof that anyone died from illnesses contracted at Ground Zero.

To galvanize the federal government into supporting long-term monitoring and treatment programs.

To review disability and pension benefits afforded to 9/11 responders with an eye on eliminating gross inequities. While firefighters and cops have been granted extremely liberal, even overly liberal, line-of-duty retirement benefits, thousands are trapped in a workers' compensation system that is ill-suited to treat them fairly.

When the call came, the instant the first hijacked jet knifed into the north tower of the World Trade Center, the Ground Zero recovery army surged to the aid of their fellow human beings without a thought as to their own safety. After the buildings collapsed, they worked long and hard to bring New York back from the worst attack on U.S. soil. But they were lied to and they were badly equipped, and then, when they became sick, as many physicians predicted they would, far too many were abandoned.

Decency demands better.

TOMORROW
The fatalities among the forgotten

New York Daily News - http://www.nydailynews.com

Death sentence

Sunday, July 23rd, 2006

Stephen Johnson served New York with valor for 21 years as a firefighter on the nation's preeminent force. He was a man who put the safety of others above his own. He loved the work - and it cost him his life.

On Aug. 6, 2004, Stephen Johnson died from service in the line of duty at age 47. Yet the rolls of honor do not bear his name, nor has the mayor or the fire commissioner stood in public tribute to this fallen hero.

For Stephen Johnson is a forgotten victim of 9/11.

The official record carries Johnson as a retired firefighter who passed away after a heart attack and a bout with a lung ailment two years after he left the force. This is because, callously and in disregard of overwhelming evidence, the City of New York has refused to acknowledge even the likelihood that working around the smoldering rubble of the World Trade Center proved fatal to anyone.

But that is precisely what killed Johnson, whose death stands as the earliest Ground Zero fatality from disease for which cause and effect has been established.

And it is precisely what killed Police Officer James Godbee.

And it is precisely what killed Detective James Zadroga.

And it is precisely what killed Emergency Medical Service Paramedic Debbie Reeve.

They were among the 40,000 people who pulled together in the drive to restore New York's footing after 9/11. Today, more than 12,000 members of that brave army are ill because they were exposed to the toxic cloud that hovered over what became known as The Pile.

Officials falsely assured them the air was safe. Most were not provided with or did not wear respiratory protection.

The vast majority of the sick suffered damage to their respiratory tracts from breathing air thick with particles, including concrete dust, pulverized glass and asbestos. The materials, in effect, burned the air passages, causing inflamed sinuses, bronchitis and reactive airways dysfunction syndrome, or RADS, an irritant-induced asthma.

A smaller number of Ground Zero responders contracted even more serious illnesses, and some died. How many developed their conditions as a consequence of working at The Pile cannot now be established, and medical experts are skeptical about proving a causal relationship in most cases.

But there can be no reasonable doubt that Ground Zero service cost Johnson, Godbee, Zadroga and Reeve their lives. Where Johnson and Reeve are concerned, the FDNY's top physicians, Drs. Kerry Kelly and David Prezant, say they believe this is so. The evidence is just as strong for Godbee and Zadroga.

"How else do you account for it?" Kelly said, referring to Reeve's death.

It is long past time to set the record straight about fatalities among the forgotten victims of 9/11 — to honor those who have died, to keep faith with history and to provide the sick with the fullest information.

It's time for Mayor Bloomberg to recognize Johnson, Godbee, Zadroga and Reeve as heroes who died from illnesses sustained in the line of duty, and to express New York's gratitude to their loved ones.

It's time for the mayor, upon whom we have called to lead a campaign for all forgotten victims of 9/11, to declare that New York owes the Johnson, Godbee, Zadroga and Reeve families every possible benefit — and to order city lawyers to stop unconscionably fighting against giving the families their due.

It's time to confront what happened to Johnson, Godbee, Zadroga and Reeve in the knowledge that medical experts say others may well develop serious, even fatal, illnesses as the 9/11 health disaster unfolds. Let them not be forgotten, too.

Stephen Johnson

Heroism came naturally to Stephen Johnson — as Linda Kalodner learned firsthand.

On March 11, 1999, Kalodner was the mother of 6-month-old twins, and she and the babies were trapped by a fire on the ninth floor of a Manhattan building. Up a fully extended tower ladder came Johnson and his partner Matt Barnes.

Strapped to the top of the aerial, arms and legs stretched as far as possible, Barnes took the infants from Kalodner and passed them to Johnson, who carried the babies to safety. The partners were feted at City Hall, and the Daily News named Barnes its Hero of the Month. Less than two years later, Barnes was killed on 9/11 and Johnson went to work at Ground Zero, there when the toxic cloud was thickest, there when the job required wading in dust up to his knees. He was a big, strapping guy, fit and healthy, and his every breath moved him closer to death.

In April 2002, still healthy, Johnson retired from a job that was a joy of his life. "Next to me, it was the only other thing he loved," said his widow, Rose.

Early in 2004, Johnson became short of breath while shoveling snow. Over the next few weeks, his shortness of breath worsened. That March, he went to a hospital, where doctors feared he was suffering a heart attack. That wasn't the case, and that May he was diagnosed with interstitial lung disease, or ILD.

Caused by inhaling irritants, ILD is a rare condition found, for example, in miners who work amid coal dust. The presence of particles in the lung provokes the body to try to combat them as it would fight a germ. The immune system surrounds the particles with cells that build up into nodules known as granulomas. Granulomas retard breathing, can cause lesions and lead to irreversible scarring, called fibrosis, on oxygen-extracting tissues.

By the time Johnson was diagnosed, 80% of his lungs had been destroyed. He required oxygen 24 hours a day, and joined the waiting list for a lung transplant. But he never got that far. Suffocating, Johnson suffered a fatal heart attack.

After 15 years of marriage, Rose Johnson lives by herself in Queens. She shies from criticizing city officials for their failure to honor her husband as the first Ground Zero responder to die from an illness contracted there. Nor does she complain that, until today, the circumstances of her husband's illness and death have never been reported. But the pain is obvious in her voice when she recounts her memories of his loss. Only when she points out that the Bravest at her local firehouse give her all the support she asks for does her voice brighten.

Rose Johnson has her husband's pension, but not the full-salary death benefit given to the widows of firefighters who die in the line of duty. Spouses of retirees are not eligible.

James Godbee

James Godbee was the next responder to die after contracting an interstitial lung disease.

A 19-year NYPD veteran and father of two, Godbee worked at Ground Zero for 12 to 15 hours a day for 80 days from Sept. 13, 2001, to June 2002. Never did he wear respiratory equipment.

In November 2003, Godbee developed a cough, shortness of breath, joint pains, fever, weight loss and swelling in his salivary and tear glands. Based on a chest X-ray three months later, his doctors suspected sarcoidosis, a form of ILD.

Dr. Frank Accera, a pulmonary specialist at Beth Israel Medical Center, performed a biopsy, during which Godbee's lung collapsed. The test confirmed the diagnosis.

Sarcoidosis is believed to be caused by contact with irritating foreign substances, but no irritant has ever been identified as its trigger. In addition to the lungs, the illness attacks organs such as the heart, skin and kidneys. Treatable and rarely fatal, sarcoidosis can lead to "progressive multi-organ failure in an unfortunate minority" of cases, according to a 1997 study published in the New England Journal of Medicine.

High dosages of a steroid got Godbee's symptoms under control, but the drug made him sick to his stomach. Over the next seven months, Godbee's lung distress fluctuated as he tried to wean off the steroid, and, feeling generally better, he stopped seeing Accera in October 2004.

Godbee's wife, Michelle, a school guidance counselor, said her husband continued to work. On Dec. 30, 2004, he felt "a little down, a little sick," but he nonetheless took the couple's daughter to a Jim Carrey movie, Michelle Godbee said. At 9:45, he returned to the family's apartment in Manhattan's Stuyvesant Town, gave his daughter "a long hug good night," and minutes later suffered a seizure.

"I called 911. They told me to put him on the floor," Michelle Godbee said. "I heard his lungs go down. He was pronounced DOA at the hospital."

James Godbee was 44. An autopsy found granuloma in his lungs, colon and heart. In his report on the case, Accera wrote: "It is with a reasonable degree of medical certainty that I conclude that Mr. Godbee's exposure to and inhalation of the toxic materials present at the WTC site after the events of Sept. 11, 2001, either caused or aggravated his sarcoidosis and ultimately caused his death."

Regardless, the NYPD pension board ruled Godbee had not contracted sarcoidosis in the line of duty, stating the condition is "not known to be related to employment in the police force." The board denied his family the enhanced benefits afforded to cops who die in the line of duty. When Michelle Godbee took the matter to court, city lawyers fought her petition — even barring FDNY

doctors, experts in sarcoidosis, from testifying. A judge returned the matter to the board for further review.

James Zadroga

On Jan. 5 of this year, homicide Detective James Zadroga became the third responder to succumb to interstitial lung disease.

On the force for six years, Zadroga was inside 7 World Trade Center as the building began to collapse. He escaped and returned to Ground Zero, spending more than 450 hours there and at the Staten Island landfill, where the rubble from the Trade Center was carted. He wore only a paper mask.

Within a few weeks, Zadroga began to cough. Over the next months, the formerly healthy 29-year-old developed severe shortness of breath, acid reflux and sleep apnea. He began passing out and, coughing incessantly, was unable to walk more than 100 feet without gasping.

Zadroga's downward spiral forced him onto extended sick leave. By 2003, he required oxygen 24 hours a day. He was rejected three times for a line-of-duty disability pension; the retirement system's medical board said he hadn't proven a connection between his Ground Zero work and his illness.

Only on Zadroga's fourth appeal did the doctors come around. He retired Nov. 1, 2004. Fourteen months later, with his 4-year-old daughter Tylerann asleep by his side, Zadroga died at age 34. He was a widower with $50,000 in medical bills. Grandparents took custody of the orphaned Tylerann.

The coroner's report listed the cause of death as "granulomatous pneumonitis."

"It is felt with a reasonable degree of medical certainty that the cause of death in this case was directly related to the 9/11 incident," wrote Ocean County, N.J., pathologist Dr. Gerard Breton. His report, often cited as the first official confirmation that service on The Pile had proven fatal, was dismissed by city officials as inconclusive.

Debbie Reeve

Debbie Reeve joined the EMS in 1989, working first as an emergency medical technician and then as a paramedic. Assigned to a haz-mat unit, she spent more than six months collecting human remains from The Pile and staffing a Ground Zero morgue.

Early in 2004, Reeve developed a cough and shortness of breath after exertion. Her doctor diagnosed flu and pneumonia and prescribed antibiotics that proved useless. Out of sick time, she asked for clearance to return to work, which required a chest X-ray because of her haz-mat status. The X-ray led to the discovery of mesothelioma, a rare cancer caused by asbestos.

From late 2004 until late 2005, Reeve underwent chemotherapy, followed by removal of her right lung and part of her diaphragm. She had radiation and was declared cancer-free.

Six weeks later, Reeve starting having pain in her leg and hip, and X-rays showed mottling in her thigh bones — a sign the cancer had returned. In January 2006, doctors removed infected marrow from her legs, but a month later they found cancer in her back, lung and spine.

On March 15, Reeve died at age 41, leaving an 11-year-old daughter and a 6-year-old son.

Before her death, Reeve had become the first WTC responder to be granted a three-quarters disability pension under a special bill signed in Albany, but she died before receiving a single check. Her husband, David, also an FDNY paramedic, is now battling for workers' compensation coverage of $90,000 in medical bills. Opposing him is the city Law Department, where attorneys have argued both that he didn't file his claim within a required deadline and that there's no proof Reeve developed mesothelioma from working at Ground Zero.

Johnson, Godbee, Zadroga and Reeve are but four of the 9/11 responders who have suffered serious illnesses. David Worby, a lawyer waging a suit on behalf of 8,000 WTC responders and their survivors, says, for example, that more than 170 of his clients have developed cancers and 57 have died.

Whether those cancers trace to Ground Zero is a matter of conjecture, but fear is widespread among those who served. This is understandable. What is not understandable has been the refusal of city officials to admit even a probability that 9/11 service led to any death.

Health Commissioner Thomas Frieden exemplified the attitude when he said he would be "surprised" if Zadroga's suffocation could be conclusively linked to particles breathed in at Ground Zero. The coroner, he said, had not tested the materials in Zadroga's lungs to see if they matched exactly with substances at The Pile.

True enough, but that hypertechnicality is far outweighed by the body of evidence.

Johnson, Godbee, Zadroga and Reeve were healthy, relatively young nonsmokers before they spent hundreds of hours in the poisonous cloud at The Pile.

They contracted diseases triggered by inhaling substances that irritate the lungs.

Other 9/11 responders came down with the same rare illness, interstitial lung disease, suffered by Johnson, Zadroga and Godbee and survived. Two firefighters and a civilian worker got the type of ILD that struck Johnson and Zadroga; 20 firefighters got the variation, sarcoidosis, that felled Godbee. Among the survivors, the conditions are generally accepted as being caused by WTC toxins.

Mesothelioma, Reeve's cancer, is found overwhelmingly in people who have breathed in asbestos. What's surprising is only the speed with which the disease came on after Reeve was exposed, said the FDNY's Kelly.

Stephen Johnson, James Godbee, James Zadroga and Debbie Reeve died because they served New York in a time of need. Then they were forgotten. Now Mayor Bloomberg must give them the honor they deserve.

Everything New Orleans

Storm debris landfill is OK'd

Eastern N.O. residents furious

Friday, April 14, 2006

By Gordon Russell

Staff writer

The state Department of Environmental Quality will allow the opening of a new construction landfill in eastern New Orleans despite the vehement opposition of a coalition of neighborhood residents and environmentalists, department officials announced Thursday.

The Chef Menteur disposal facility, at 16600 Chef Menteur Highway adjacent to the Bayou Sauvage National Wildlife Refuge, will also receive emergency authorization under the Clean Water Act today from the Army Corps of Engineers to begin accepting waste, corps officials said Thursday. The facility could take as much as 6.5 million cubic yards of debris, officials said.

The corps and DEQ approvals were the last remaining regulatory hurdles keeping the landfill from accepting waste, meaning the facility could open immediately. However, officials from Waste Management of Louisiana, which will operate the landfill, could not say Thursday when the facility will be ready to accept waste.

Lawyer Robert Wiygul, who represented the Louisiana Environmental Action Network in a recent lawsuit against DEQ that forced the agency to reduce the amount of waste dumped at the nearby, city-owned Old Gentilly Landfill, said a suit over the new landfill appears "unavoidable."

"We know it's against the wishes of the community and the City Council," he said. "It's hard to find anyone who's for it except DEQ and Waste Management. "We're talking about exactly the same kinds of problems as with the Gentilly landfill: a vulnerable location where the whole area flooded. It's right next door to Bayou Sauvage in a wetland area with a high water table. The only thing different is this one isn't built on top of an old dump.

Fast-track permit

The new landfill grew out of the Gentilly settlement. As operations were scaled back there, Waste Management sought and received the conditional-use permit it needed for the new landfill from City Hall, courtesy of Mayor Ray Nagin, who in February invoked emergency powers after Katrina to waive the city's comprehensive zoning ordinance. The same day, Waste Management pledged to give 22 percent of the revenue it receives from the new facility to the cash-strapped city.

Environmentalists and leaders of the nearby, mostly Vietnamese community of Village de l'Est, were enraged at news of the fast-track approval granted to the landfill. The state's authorization came exactly a week after leaders of the Vietnamese community held a demonstration at City Hall and the City Council asked Nagin to rescind his zoning waiver.

Nagin declined, saying that the landfill is "three miles from the nearest home," and adding: "If we

don't do this, it will take three years to dispose of all the debris. If they (the council) have a better alternative, I'm all ears."

The Rev. Vien Nguyen, pastor of Mary Queen of Vietnam Catholic Church and a leader of the Village de l'Est area, hotly contested both Nagin's numbers and his rationale.

For starters, Nguyen said, the landfill is just 0.8 miles from the nearest apartments, not three miles.

Hindering recovery?

Moreover, Nguyen said, Nagin's decision to place a disposal facility there flies in the face of the mayor's public statements encouraging communities to pull themselves up by the bootstraps. The neighborhood has been actively planning its future, Nguyen said, and many residents have begun rebuilding. He and others fear a new landfill nearby will hurt those efforts.

"This will have a chilling effect on our recovery," he said. "It's certainly a black eye to us as the people trying to recover. We thought we could reason with them to show them all the compelling reasons not to put a landfill in a wetland area. There seems to be a disregard for human safety as well as recovery."

Nagin's estimates of time and distance were apparently derived from statements made by Chuck Brown, assistant secretary of the DEQ, who on Thursday offered a similar rationale for allowing the landfill to open.

Brown said Thursday that it would take 30 months to clean up storm debris with one landfill in the area; about 15 months with two landfills; and about 10 ½ months with three landfills.

Currently, Brown said, there are two construction landfills open in the area: the city-owned Old Gentilly Landfill, also in eastern New Orleans, and the Highway 90 landfill on the west bank of Jefferson Parish in Waggaman. The new landfill would be the third facility, meaning that, by Brown's figuring, the debris should be picked up in less than a year, provided all three landfills stay open.

Brown acknowledged, however, that his figures were not based on a scientific analysis of where debris is located and how long it will take to pick up. Rather, he used estimates of how much debris remains and figured that each landfill could accept approximately 20,000 cubic yards per day.

More haulers likely

While the math may not be precise, Brown said more landfills will definitely speed the cleanup because once debris haulers figure out they can make more trips to the landfill each day, more haulers will arrive to aid in the effort.

"Once they know we have other facilities, we'll probably have more folks coming to offer trucks and labor," Brown said.

The corps, which is in charge of debris-removal, has also said that another landfill would make its mission cheaper and faster. However, corps officials likewise don't have a scientific estimate of how much difference another landfill will make.

Sid Falk, debris mission manager for the corps, said the agency believes the debris removal would be "probably 20 percent more efficient" with another landfill. Falk said the corps does not have "a good handle" on how much money would be saved because prices for each debris-removal task are negotiated based on current conditions.

Asked whether the corps had requested that DEQ approve a new facility, Falk said, "Absolutely."

Pete Serio, chief of the Eastern evaluation section for the corps, regulatory branch, said the corps does "not commonly" waive a needed Clean Water Act permit for a landfill.

"This is kind of a unique situation because of the storm debris resulting from Hurricane Katrina," he said, adding that the corps will conduct a more thorough review over the next few months.

The Chef Menteur site is owned by Expedition Enterprises, according to city records. That company's principals are listed in state records as Ross Reynolds of Corpus Christi, Texas, and Gerald Vaccaro and Charles Canale Jr. of Tickfaw.

But the operations and permitting have been handled by Waste Management. Brown stressed that the approval granted Thursday to that company was technically "not a permit" but rather "approval of an emergency operational plan."

Short life span

A typical landfill might be open for a decade, Brown said, but the Chef site might be closed in a year because it's likely to be full by then.

"What we're going to do is utilize the facility until we're comfortable that the debris is picked up," Brown said. "A permit is a permit to operate for 10 years. That's not what we're doing here. We're just using this facility to handle debris from the hurricane. And if the normal rates apply, it will be filled to capacity in 12 months."

But Nguyen countered that even if the landfill isn't open for long, it will still be there and, in his view, putting the nearby community at risk from runoff or the possibility of another catastrophic flood. The area around the landfill flooded badly after Katrina.

"They talk about a temporary landfill, but that landfill will be there permanently," he said.

Nguyen, Wiygul of the Louisiana Environmental Action Network and City Councilwoman Cynthia Willard-Lewis all griped that the community's strong objection to the facility didn't seem to matter.

"Whatever DEQ thinks, this is still a democracy, and people still get to decide what their government does," Wiygul said.

"It seems as if there has been a total disregard of the voice of the people and the City Council, and that's not acceptable," said Willard-Lewis, who hopes to convene a meeting with Brown and Nguyen next week.

Brown said that DEQ will soon issue a "decisional document" laying out its reasons for approving the landfill, and that the public will have an opportunity to comment on that.

"If there are some other concerns that will be voiced, we look forward to hearing them," he said.

Brown added that regulators must take into account a broad range of factors when making such decisions, and the region's need to dispose of debris quickly is one of them.

"We keep talking about rebuilding, but we can't rebuild until we clean it up," Brown said. "When folks say the emergency is nonexistent, well, they haven't been traveling to parts of the Lower 9th Ward and eastern New Orleans that I've been in."

Wiygul countered that debris removal, at this point, "is not what's holding up the recovery of New Orleans."

The approval of the Chef site came just two days after the owners of another large tract in eastern New Orleans said they intend to seek permission to open a landfill.

Newport Environmental Services LLC said it has applied for two federal permits needed to open a landfill for a 700-acre parcel along Paris Road, about four miles south of the junction of Interstates

10 and 510. The firm has not filed for a state permit, but one of its owners said the firm will do so by the end of April.

However, with the Chef site set to open, Brown said he sees far less urgency to approve another site.

"At this point, from an emergency standpoint, I'm very comfortable with where we are," Brown said. "I think this will address our needs."

. . . . . .

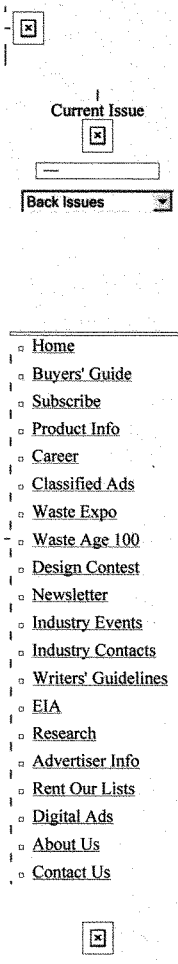
Gordon Russell can be reached at grussell@timespicayune.com or (504) 826-3347.

NATIONAL DESK

A New Landfill In New Orleans Sets Off a Battle

By LESLIE EATON (NYT) 1217 words Published: May 8, 2006 NEW ORLEANS - Block after block, neighborhood after neighborhood, tens of thousands of hurricane-ravaged houses here rot in the sun, still waiting to be gutted or bulldozed. Now officials have decided where several million tons of their remains will be dumped: in man-made pits at the swampy eastern edge of town, out by the coffee-roasting plant and the space-shuttle factory and the big wildlife refuge. But more than a thousand Vietnamese-American families live less than two miles from the edge of the new landfill. And they are far from pleased at having the moldering remains of a national disaster plunked down nearby, alongside the canal that flooded their neighborhood when Hurricane Katrina surged through last year. Environmental groups are also angry, accusing local and federal officials of ignoring or circumventing their own regulations, long after the immediate emergency has ended. The same thing happened after Hurricane Betsy in 1965, they warn, and that dump ended up becoming a Superfund site. The new landfill, known as Chef Menteur after the highway that borders it, sits across a canal from Bayou Sauvage, the largest urban wildlife refuge in the country, with 23,000 acres of marshland, canals and lagoons that are home to herons, egrets, alligators and, in the fall, tens of thousands of migratory ducks. Nonetheless, the landfill lacks some of the safeguards that existing dumps do, like special clay liners. The government says they are not needed because demolition debris is cleaner than other rubbish. Residents and environmentalists think otherwise, because after Hurricane Katrina the state expanded the definition of construction and demolition debris to include most of a house's contents, down to the moldy mattresses and soggy sofas. "It's essentially the guts of your house, all your personal possessions," said Joel Waltzer, a lawyer representing landfill opponents. "Electronics, personal-care products, cleaning solutions, pesticides, fertilizers, bleach." State officials say that the new landfill is safe and that they are simply moving quickly to protect public health and the environment, using techniques that did not exist 40 years ago. The new site was chosen to speed up the cleanup, they say, because the debris will not have to be hauled far. The state estimates that 7.2 million tons of hurricane debris remains to be cleaned up; the Chef Menteur landfill will take 2.6 million tons. "You cannot rebuild until you clean up," said Chuck Carr Brown, an assistant secretary of the Louisiana Department of Environmental Quality, which provided a permit for the landfill. "I'm still in the eye of the storm." The state has agreed to do some extra monitoring of groundwater, Dr. Brown said. But it has determined "there's nothing toxic, nothing hazardous," he continued. "There will be no impact" on the community, which is sometimes called Versailles. Like so many disputes that have erupted since the hurricane, this one involves some highly charged issues: politics, money, history and race. Not to mention a highly developed distrust of government that almost all Louisianians now seem to share. Unlike most residents of eastern New Orleans, the Vietnamese have returned, rebuilt and drawn up elaborate plans for their 30-year-old community's future. Now they feel unwelcome, said the Rev. Vien thé Nguyen, the pastor of Mary Queen of Vietnam Catholic Church and a leader in the fight against the landfill, which opened on April 26. "They're threatening our very existence," Father Vien said of the government agencies that approved the dump site, which residents fear will tower 80 feet or more above their neighborhood, dwarfing the new church they are planning to build, once the Federal Emergency Management Agency trailers are gone from the site. Father Vien said he was particularly worried about the quality of water in the canal and the lagoon that run through the neighborhood of tidy brick houses. Residents use that water on the tiny waterside gardens that supply the community with sugar cane and bitter melon

and Vietnamese varieties of vegetables, he said. He and his parishioners are particularly angry at Mayor C. Ray Nagin, who in February used emergency powers to waive zoning regulations for the landfill. "Maybe we're not the right kind of people he wanted to return," Father Vien said. Neither the mayor nor his staff responded to requests for response to the priest's comments. The state and the Army Corps of Engineers, which is handling cleanup in the city, say that without the dump, the cleanup would take much longer. The existing dumps would not be able to process all the debris fast enough, officials say, and are too far from the blighted buildings. And the need for the new dump will only increase, they say, as the cleanup progresses. Maurice Falk, the corps official in charge of the cleanup, said at a federal court hearing last week that only 115 houses have been demolished so far. Given that slow pace, critics question why the landfill had to be opened so quickly, before environmental studies were prepared and the community was consulted. The community would be willing to negotiate a compromise and do its part in the cleanup of the city, said Kelly H. Tran, who lives in the Vietnamese enclave and with her husband runs a construction company that has been fixing damaged houses. But, she continued, "It's not fair for us to have no voice in this big decision, this critical decision." State officials said they had reviewed the site for a landfill in the past, when political opposition had blocked it, and now simply could not wait two or three months to get through the public comment period. But on April 28, after the opposition was in full cry, the state and the corps put out a notice soliciting public comment on the landfill. If residents or opponents "have something we missed, we'll address it," said Mike D. McDaniel, the secretary of the State Department of Environmental Quality. As for those who argue that there is no emergency involved, he disagrees. "Some people can't seem to understand this is not business as usual," he said. Environmental groups are not happy. Adam Babich, director of the Tulane Environmental Law Clinic, said government agencies in the region had never been vigilant about complying with environmental regulations but had been especially lax since the storm. This attitude is most apparent, he said, when it comes to landfills. In nearby Plaquemines Parish, a longtime dispute over a landfill has flared up because the dump is taking in Hurricane Katrina debris. And sparring continues over the Old Gentilly landfill, an old-fashioned, unlined dump that the state closed in 1986 but reopened after the hurricane. It is now accepting a limited amount of debris after a suit was filed by the Louisiana Environmental Action Network, one of the groups represented by Mr. Waltzer, and it was criticized in a report commissioned by FEMA. The fight over the new landfill is by no means over, Father Vien said. On April 27 he was showing visitors the site -- and admiring the alligators gliding through the adjacent Maxent Canal -- when he got the news from Mr. Waltzer that a federal judge had refused to issue a temporary injunction against the dump. At first he seemed stunned. "I cannot believe that," he repeated several times. Then he rallied. "The game is not over," he said. "It just started, actually."



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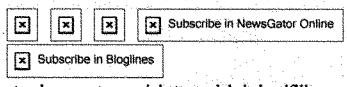

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New Orleans to close controversial storm debris landfill

Jul 14, 2006 2:27 PM

New Orleans Mayor Ray Nagin announced Thursday that he would allow an order authorizing the Chef Menteur Landfill to expire on Aug. 14, effectively closing the site. According to an Associated Press report, the landfill has been the subject of protests from environmental groups and a nearby Vietnamese community since it was put into service last year as a dumping ground for the storm and flood debris created by Hurricane Katrina. Though tests conducted by the Louisiana Department of Environmental Quality revealed no immediate threats to air or water quality, opponents say they are concerned about the site's long-term toxicity.

Waste Age 100 List

Don't miss your chance to be included in our annual Waste Age 100 list, which will appear in the June issue.

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Barbara/dsa/2260

FILE COPY

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P. O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO ATTENTION OF

APR 14 2006

Operations Division
Eastern Evaluation Section

Subject: MVN 2006-1390 EFF

Waste Management of Louisiana
c/o Sigma Associates
Attn: Ms. Susan Douglas
10305 Airline Highway
Baton Rouge, Louisiana 70816

Dear Ms. Douglas:

We have received your permit application to construct a construction and demolition debris landfill at 16600 Chef Menteur Highway in Orleans Parish.

By this letter, we are granting you emergency authorization to commence operation of the landfill while we continue to evaluate your Department of the Army permit application. This authorization allows the disposal of construction and demolition debris, and vegetative debris resulting from Hurricanes Katrina and Rita. All disposal operations must be consistent with the emergency authorization issued by LA DEQ in letter dated April 13, 2006.

This emergency authorization does not obviate the need to obtain other Federal, State, or local authorizations required by law. To the maximum extent practicable, the performance of this work should be done in a manner that will minimize adverse impacts on the environment.

Sincerely,

/s/

Ronald J. Ventola
Chief, Regulatory Branch

Serio
OD-SE

Ventola
OD-S

FILE COPY

DEPARTMENT OF ENVIRONMENTAL QUALITY
KATHLEEN BABINEAUX BLANCO
GOVERNOR
MIKE D. McDANIEL, Ph.D.
SECRETARY

MAY - 1 2006

April 13, 2006

Sigma Associates, Inc.
10305 Airline Highway
Baton Rouge, LA 70816

Attention: Susan Douglas, Agent for Waste Management of Louisiana

RE: Water Quality Certification (JP 060317-01/AI 136645/CER20060001)
Orleans Parish

Dear Ms. Douglas:

We have received your application for a U.S. Army Corps of Engineers 404 Permit to excavate land and place fill material for the construction of a landfill at 16600 Chef Menteur Highway in New Orleans, Parish of Orleans, State of Louisiana.

The Louisiana Department of Environmental Quality (LDEQ) recognizes that Louisiana is in a state of emergency as a result of the widespread damage caused by Hurricanes Katrina and Rita. Finding that the hurricanes created conditions requiring immediate action to prevent irreparable damage to the environment and serious threats to life or safety, a Declaration of Emergency and Administrative Order was issued by the LDEQ on August 30, 2005, and most recently amended on March 31, 2006.

Section 401 of the Clean Water Act, 33 U.S.C. 1251, *et. seq.*, requires a water quality certification from the state to conduct any activity which may result in any discharge into navigable waters. Because of the immediate need to dispose of debris resulting from storm damage and subsequent demolition of buildings (construction and demolition debris), the LDEQ by this letter states that it has no objection to the U.S. Army Corps of Engineers or the U.S. Environmental Protection Agency waiving or otherwise dispensing with the requirement of a water quality certification from the state prior to authorizing or performing such work needed to abate the present emergency that will result in discharges into navigable waters.

The intent of this letter is to allow the applicant to commence activities described in the 404 permit application, not to release the applicant from any requirement to obtain a Section 401 Water Quality Certification after-the-fact.

To the extent practicable, the performance of the work which is the subject of this waiver should be done in a manner that will minimize potential adverse impacts on water quality.

ENVIRONMENTAL SERVICES
: PO BOX 4313, BATON ROUGE, LA 70821-4313
P:225-219-3181 F:225-219-3309
WWW.DEQ.LOUISIANA.GOV

If you have any questions regarding this letter, please contact Tom Griggs in the Office of Environmental Services, at (225) 219-3469.

Sincerely,

Chuck Carr Brown, Ph.D.
Assistant Secretary
Office of Environmental Services
CCB/tg

c: U.S. Army Corps of Engineers
New Orleans District

DEPARTMENT OF ENVIRONMENTAL QUALITY
KATHLEEN BABINEAUX BLANCO
GOVERNOR
MIKE D. McDANIEL, Ph.D.
SECRETARY

April 13, 2006

Amanda Olsen
Waste Management of Louisiana, LLC
29375 Woodside Drive
Walker, Louisiana 70785

RE: Emergency Disaster - Enhanced Construction and Demolition Debris Disposal Site
Operation and On-Site Closure Approval
Agency Interest Number 80784
Katrina AI# 130534
Orleans Parish

Dear Ms. Olsen:

The Louisiana Department of Environmental Quality (hereafter referred to as "Department") hereby approves the temporary disposal of construction and demolition debris (C&D) and the closure of C&D sites resulting from the widespread damage caused by Hurricane Katrina at the location identified below. This Department approval is contingent upon the recipient securing any necessary approval for the operation and closure of the site from any person(s) having a legal interest in the site.

Site Name	AI #	Parish	Latitude	Longitude
Chef Menteur Disposal	80784	Orleans	30° 02' 52"	89° 52' 55"

This approval will allow for more efficient and expeditious management of the high volumes of storm debris resulting from Hurricane Katrina and will remain in effect until the expiration of the Emergency Declaration, or upon completion of the authorized debris management activity for which the site is approved, whichever occurs first. However, the Department reserves the right to reduce or extend the timeframe of this temporary approval based upon the progression of the clean-up efforts associated with the aftermath of Hurricane Katrina.

Only those C&D wastes generated as a result of Hurricane Katrina are to be disposed at this location. It is imperative that the debris collected as a result of this emergency event be managed not only in an environmentally sound manner but also in accordance with the appropriate Department rules and regulations governing the storage, processing and disposal of this type of waste. The site's debris management operations and closure/post-closure activities shall be in accordance with the specifications contained in the Interim Operational Plan provided in Chef Menteur's Emergency Disaster Cleanup Site Request, Supplemental Operational Information and subsequent submittals to the Department (dated March 1, 15, 21 & 30, 2006).

The materials acceptable for disposal at this location consist of the following:

- Nonhazardous waste generally considered not water-soluble, including but not limited to metal, concrete, brick, asphalt, roofing materials (shingles, sheet rock, plaster), or lumber from a construction or demolition project;
- Furniture, carpet, or painted or stained lumber contained in the demolished buildings;
- The incidental admixture of construction and demolition debris with asbestos-contaminated waste (i.e., incidental asbestos-contaminated debris that cannot be extracted from the demolition debris); or
- Yard Trash

The following materials shall not be disposed in this location's pre-approved construction and demolition debris disposal site, but shall be segregated and transported to an LDEQ approved staging area for eventual management, recycling and/or disposal at a permitted Type II Landfill:

- White goods
- Putrescible Waste

The management of Hurricane Katrina generated debris at permitted and pre-approved C&D locations shall be between the hours of 7:00 a.m. to 7:00 p.m. Central Time (unless alternate hours of operation are approved by the Department).

In accordance with Act 1074 of the 1990 Regular Session, the Department will provide written notice to the local governing authority of this authorization that allows the on-site disposal of solid waste.

At least five (5) days prior to the initiation of on-site closure, the Department requires that Waste Management of Louisiana provide written notification to:

Louisiana Department of Environmental Quality
Office of Environmental Assessment
P.O. Box 4314
Baton Rouge, La. 70821-4314
Phone:(225)219-3236
FAX: (225)219-3239
Email: deqoea@la.gov

Within thirty (30) days after completion of on-site closure, the Department requires that Waste Management of Louisiana submit: (1) a letter certifying that closure of the site was conducted in accordance with the Interim Operational Plan; (2) a copy of the public notice required upon

closure of the site,; and (3) a copy of the required deed recordation as certified by the Orleans Parish Clerk of Court's Office. These documents should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
P.O. Box 4312
Baton Rouge, La. 70821-4312
Phone: (225)219-3700
FAX: (225)219-3708
Email: deqoec@la.gov

The Department will notify the local governing authority regarding the final closure of the C&D site.

A decisional document providing justification for the utilization of the Chef Menteur Disposal Facility for disposal of hurricane debris with be forthcoming in separate correspondence. The decisional document will be public noticed.

If you have any questions regarding this matter, please contact Ms. Kenya Gillingham or Ms. Mia Townsel of the Water and Waste Permits Division at (225) 219-3070.

Sincerely,

Chuck Carr Brown, Ph.D.
Assistant Secretary

c: Veronica White, City of New Orleans

DEPARTMENT OF ENVIRONMENTAL QUALITY
KATHLEEN BABINEAUX BLANCO
GOVERNOR
MIKE D. McDANIEL, Ph.D.
SECRETARY

MAY 0 1 2006

DEQ
LOUISIANA

Certified Mail 7004 1160 0003 2704 8993
Return Receipt Requested

File No. LAR10D485
AI No. 80784 /Gen20060001

Mr. Jim Funderburg
Waste Management of Louisiana, L.L.C.
434 Columbia Ave., Suite 2
Covington, LA 70433

Re: Storm Water Construction General Permit Coverage Notice
Louisiana Pollutant Discharge Elimination System (LPDES)

Dear Mr. Funderburg:

Your Notice of Intent (NOI) received April 19, 2006, for Chef Menteur C & D Disposal, L.L.C., located at 16600 Chef Menteur Highway in New Orleans, Orleans Parish, has been processed and is administratively complete.

This facility, if qualified under the conditions of the permit and unless notified otherwise by this office, is authorized to discharge storm water associated with construction activity under the terms and conditions established under Louisiana's LPDES Construction General Permit. Your facility's authorization number is LAR10D485. This number and the Agency Interest Number listed above should be referenced in all future correspondence with this office.

Attached for your use is a copy of the permit. This permit requires certain storm water pollution prevention and control measures, possible monitoring and reporting, and regular inspections. You must prepare and implement a storm water pollution prevention plan (SWPPP) that is tailored to your site. As a facility authorized to discharge under this general permit, all terms and conditions of the permit must be complied with in order to maintain coverage and to avoid possible penalties.

Your facility will be assessed an Annual Maintenance and Surveillance Fee in the amount of $264.00, to be invoiced separately by the agency. Annual fee amounts are subject to adjustment at a later date by promulgation of changes in the Louisiana Administrative Code. Pursuant to LAC 33.IX.1309.I, LAC 33.IX.6509.A.1 and LAC 33.I.1701, you must pay any outstanding fees to the Department. Therefore, you are encouraged to verify your facility's fee status by contacting LDEQ's Office of Management and Finance, Financial Services Division at (225) 219-3863. **Any outstanding fees must be remitted via a check to the Louisiana Department of Environmental Quality within thirty (30) days after the effective date of authorization under the permit.** Failure to pay the full amount due in the manner and time prescribed could result in applicable enforcement actions as prescribed in the Environmental Quality Act, including, but not limited to, revocation or suspension of the applicable permit, and/or a civil penalty against you.

ENVIRONMENTAL **SERVICES**
: PO BOX 4313, BATON ROUGE, LA 70821-4313
P:225-219-3181 F:225-219-3309
WWW.DEQ.LOUISIANA.GOV

Waste Management of Louisiana, L.L.C.
RE: LAR10D485 / 80784
Page 2 of 2

If you have any questions, please call Darlene Bernard at 225-219-3082 or Todd Halbert at 225-219-3078 in the Municipal and General Water Permits Section.

Sincerely,

Lenny Young
Administrator
Water and Waste Permits Division

cc:

Permit Compliance Unit
Office of Environmental Compliance

Todd Halbert/Permits Division

IO-W

AGREEMENT BETWEEN
THE CITY OF NEW ORLEANS
AND
WASTE MANAGEMENT OF LOUISIANA, L.L.C.

THIS AGREEMENT, made and entered into this 14th day of February, 2006, by and between the City of New Orleans, herein represented by C. Ray Nagin, Mayor, ("City") and Waste Management of Louisiana, L.L.C., herein represented by Timothy B. Hawkins, Vice President, ("Waste Management") witnesses that,

WHEREAS, the City has an immediate need to provide an alternative location for the deposit of construction and demolition debris ("C&D");

WHEREAS, Waste Management is seeking to operate a construction and demolition debris landfill at 16600 Chef Menteur Highway, New Orleans East, in Orleans Parish, Louisiana;

NOW, THEREFORE, the City and Waste Management, under the conditions set forth, agree as follows:

1. Waste Management must provide adequate lighting to Chief Menteur Highway along the entrance road to the landfill site.

2. Waste Management shall be responsible for daily collection of all litter along Chef Menteur Highway, approximately one-half mile to the east and west of the site entrance.

3. Waste Management must provide qualified monitoring to ensure that only approved construction and demolition waste is accepted.

4. Waste Management must provide the City with documentation of the financial assurance mechanism to guarantee that sufficient funds are available for the closure and post closure care requirements.

5. As required, Waste Management shall apply for a conditional use permit through the City Planning Commission.

6. The City, under its emergency powers, hereby approves Waste Management's proposed Chef Menteur Landfill as an emergency C&D disposal site, and the City has signed the applicable approval forms promulgated by LDEQ evidencing its approval for such use.

[Signatures on the following page]

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement effective the day and year first above written:

WITNESS:

CITY OF NEW ORLEANS

By: C. RAY NAGIN, MAYOR

WASTE MANAGEMENT OF LOUISIANA, L.L.C.

By: TIMOTHY B. HAWKINS, VICE PRESIDENT

Emergency Disaster Cleanup Site Request
Valid for Calendar Year 2005

Government Entity (Parish, City, or Town) City of New Orleans
Mailing Address 1300 Perdido Street, Room 1W03
City, State, ZIP New Orleans, Louisiana 70112
Telephone (504) 658-3800 FAX (504) 658-3801

Contact Person Veronica White

Type of Activity:

Staging ☐

Chipping & Grinding Area ☐

Burn Area ☐

Pre-Approved C&D Area X

Other

Requested Time Span for Activities The proposed time span will be the duration of the Hurricane Katrina disaster cleanup efforts, at this time estimated to be 12 months

Proposed Hours of Operation: 5 AM – 8 PM

Location of Site (Latitude, Longitude) Latitude 30 ° 02 ' 52 " Longitude -89° 52' 58"

Physical Location (Street, Highway, etc.) 16600 Chef Menteur Highway, New Orleans, Louisiana, approximately 2 miles east of I-510 on U.S. Highway 90

Owner of Property Expedition Enterprises, LLC

Environmental Characteristics of Location The site encompasses approximately 88 acres and was previously used as a borrow pit for clay materials. The site is west of the former Reserve One landfill. A solid waste application for the site was submitted in 1994 by a previous property owner. The application is currently on file and is inactive at this time.

Signature Authorized Parish or City Official

504-658-4910
Telephone Number

2-14-06
Date

Please Note: Approval must be obtained from the affected property owner prior to commencement of operation.
Provide a quad map delineating the area to be utilized as the site. *Mail* or *Fax* this completed form and map to:

Steve Agrillard
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312
FAX: 225-219-3708

Post-it® Fax Note 7671	Date 4-7-06	# of pages ▶ 2
To Tim Poche	From Heather Szapary	
Co./Dept.	Co. Orleans LCP	
Phone #	Phone # 504.658-4071	
Fax # 225.214.0461	Fax #	

CITY OF NEW
MAYOR'S OFFICE OF ENVIRONMENTAL AFFAIRS

April 6, 2006

Certified Mail # 70001670005 0781843

Ms. Susan Douglas
Sigma Associates, Inc.
10305 Airline Highway
Baton Rouge, Louisiana 70816

RE: **P# 20060318 Local Coastal Use Permit, Request for Determination**
Applicant: Waste Management of Louisiana
Agent: Sigma Associates, Inc.
Activity: Construction/demolition landfill for disposal of hurricane generated debris and other construction/demolition debris
Location: 16600 Chef Menteur Highway, Orleans Parish, Louisiana

Dear Ms. Douglas:

A review has been completed of Permit Number 20060318. In accordance with the State and *Local Coastal Resources Management Act of 1978*, as amended (La. R.S. 49:214.34.a) and the *City of New Orleans Code of Ordinances*, a Coastal Use Permit is not required since the proposed activity is located in a fastland. A fastland is property located inside the hurricane protection levee system, within which the local program's jurisdiction does not exist. However, it is in the interest of this office that stormwater runoff be minimized and filtered as much as possible due to its impact to coastal waters in the Pontchartrain Basin. In particular, any effluent created due to past and future landfill materials need to be contained in order to protect coastal waters connected to the Maxant Canal and the Intracoastal Waterway.

This determination is valid for two years from April 6, 2006. If the proposed activity is not initiated within this time frame, this determination will expire and the applicant will be required to submit a new application. This authorization does not eliminate the need to obtain approval from the United States Army, Corps of Engineers or any other federal, state or local agency approvals that may be required by law.

The drawings and other information submitted with the application with permit number 20060318 along with the reason for this determination are contained within the permit file labeled P20060318. This information is hereby made part of the official record

CITY OF NEW ORLEANS
MAYOR'S OFFICE OF ENVIRONMENTAL AFFAIRS

regarding this matter. Any design changes must be brought to the attention of this office before implementation.

Sincerely,

Wynecta Fisher
Local Coastal Program Administrator
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Cc: Jon Truxillo, Department of Natural Resources Coastal Management Division , Tim Poche, representing Waste Management of Louisiana

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DEPARTMENT OF THE ARMY
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JUL 10 2006

Honorable James M. Jeffords
Ranking Member, Committee on Environment
and Public Works
United States Senate
456 Dirksen Senate Office Building
Washington, D.C. 20510-6175

Dear Senator Jeffords:

This is a follow-up response to your letter of May 11, 2006, co-signed by Senator Thomas Carper, regarding the Army Corps of Engineers' (Corps) responsibilities for debris removal under Emergency Support Function (ESF) #3 of the National Response Plan and activities after Hurricanes Katrina and Rita. The enclosed documents detail all of the debris removal conducted by the Corps as of May 30, 2006 and responds to the specific questions from your letter of May 11, 2006. I am providing an identical letter to Senator Carper.

In assisting the States affected by Hurricanes Katrina and Rita, the Federal Emergency Management Agency (FEMA) assigned the debris removal missions to the Corps to remove debris in select Parishes, counties and Towns in the States of Louisiana, Mississippi, Alabama, and Texas. These debris removal missions represent roughly half of the entire Gulf Coast Debris mission. The other half was conducted by Counties themselves through the FEMA public assistance program. The Corps was not assigned a debris removal mission in the State of Florida.

If you have any questions, or if there is any additional information or documentation that you need, please do not hesitate to contact me.

Very truly yours,

John Paul Woodley, Jr.

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

Enclosures

Enclosure 1

U.S. Army Corps Consolidated Response
To Senators Jeffords/Carper May 11, 2006 Request

Consolidated Response—June 21, 2006
Response to Senators Jeffords/Carper May 11, 2006 Request

United States Army Corps of Engineer's Role in Debris Removal Activities in Response to Hurricanes Katrina and Rita

Louisiana:

GENERAL QUESTIONS:

First, we ask you to provide a summary of the status of the debris clean-up mission. Specifically, please provide data on the status of the removal from public rights of way, including percent complete and remaining, level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered. In addition, please provide data on the status of debris removal from the entire affected area, including the same information described above.

***Response*:**

The attached spreadsheet (Enclosure 2), *Debris Combination Report*, details the funding requirements and funds expended. Also, it is the reference source for the statistics provided below. These quantities reflect totals through May 30, 2006.

Curbside and Private Property Debris Removal (See Curbside Spreadsheet- Enclosure 2)

Katrina Hauled To Date: 15,842,963 Cubic Yards
FEMA Estimated Total: 20,706,872 Cubic Yards
Percent Complete: 77%
Remaining: 4,863,909 Cubic Yards

Rita Hauled To Date: 6,342,774 Cubic Yards
FEMA Estimated Total: 6,535,419 Cubic Yards
Percent Complete: 97%
Remaining: 192,645 Cubic Yards

Demolition (See Debris Spreadsheet-Enclosure 2):

Katrina Hauled to Date: 245,199 Cubic Yards
FEMA Estimated Total: 6,230,000 Cubic Yards
Percent Complete: 3.9%
Remaining: 5,984,801 Cubic Yards

Rita Hauled to Date: 126,441 Cubic Yards

FEMA Estimated Total: 265,000 Cubic Yards
Percent Complete: 47.7 %
Remaining: 138,559 Cubic Yards

Level of effort history (See Personnel Spreadsheet –Enclosure 2, for itemized details in Louisiana):

Average Manpower/Day:

	Total	Gvt Agencies	Contract Support
Oct 05	600	350	250
Nov 05	953	416	537
Dec 05	1,014	437	577
Jan 06	882	319	563
Feb 06	965	350	615
Mar 06	895	296	599
Apr 06	724	217	507
May 06	748	208	540

Manpower Projections:

	Total	Gvt Agencies	Contract Support
Jun 06	847	250	597
Jul06-Jul 07	585	135	450

The projections are based on the assumption that FEMA will authorize, in consultation with local authorities, 15,000 demolitions in New Orleans.

The description of major hurdles the Corps has encountered is as follows:

- Debris removal has been delayed by slow return of residents and subsequent slow pace of debris reaching the curb
- Determining applicable asbestos regulations for this response took several months to resolve.
- Identifying appropriately permitted landfills in proximity to the demolitions.
- Receiving completed demolition packages in a timely manner. Completing demolition packages involves owners, local government, and FEMA personnel.
- Long hauls to landfills in heavy traffic.
- 5,000 Cubic Yards per day restriction of debris quantity to the Gentilly landfill resulting in redirection to more distant landfills which has had an effect on the doubled and tripled cycle time. In some cases this has doubled or tripled cycle time.

Data on the status of debris removal from the entire affected area is as follows:

Right of way and private property debris quantities are not maintained separately from curbside debris. Therefore, quantities and percents completed are the same as the information listed above for "Curbside and Private Property Debris Removal; Percents completed and remaining."

Second, please provide a summary of the factors that the Army Corps has identified as impediments to speeding the pace of debris removal. We understand that the pace of homeowner return is one factor you have identified as a hurdle. Please provide a summary of the actions the Corps is taking independently or in concert with other federal entities to speed the pace of debris removal on private property. Specifically, is the Army Corps taking any action independently or in concert with any other Federal agency to increase the availability of temporary housing or to facilitate the return of residents that were relocated at Federal expense?

***Response*:**
Impediments include:

- Slow return of residents to bring debris to curb.
- Slow return of residents to give Right of Entry (ROE) permission.
- Slow pace of receiving completed, FEMA approved ROE packets.
- Reducing Gentilly Landfill to 5,000 CY/Day – Requires longer distances and heavy traffic to transport debris to more distant landfills.
- Lack of Transfer Stations in New Orleans.
- Sudden requirement for arborist during Leaner and Hanger removal.

Independent

- Proceeding with asbestos and structural inspections once addresses are received but prior to receiving an approved completed packet.

In Concert

- Corps is providing assistance to FEMA for ROE packets preparation
- Federal Protective Service is providing security assistance in New Orleans area.
- Corps has notified and is working with FEMA/City/Parishes to increase rate of ROE packet completion

Housing

In Louisiana, Corps contractors installed 81,318 temporary roofs, which reduced the need for temporary housing.

The general responsibilities of the Temporary Housing Department consist of inspecting sites before, during, and after construction. We have an on site Quality Assurance Supervisor (QAS) to inspect any and all aspects of the site before the site is approved for construction. The Corps then has a QAS onsite throughout the construction to conduct daily inspections. There are daily reports completed to keep track of the work being completed as well as document any and all responsibilities held by the contractor.

After construction is accepted, the Corps is no longer responsible for anything that is occurs on site. The Corps does not, at any point, and does not plan to partake in the actions to decide who is to reside in the trailers that are on site; nor do we hold any responsibility as to the final destination of the evacuees for future reference.

The main goal of the Temporary Housing Department is to assure all safety guidelines and regulations are followed as directed and that each site is completed to a satisfactory level.

Please provide a detailed summary of the levee repairs and enhancements that the Corps plans to conduct by June 1, 2006, the additional work the Corps plans to conduct between 2006 and 2009, and the status of each project, including expenditures to date.

Response:

Enclosure 3, Hurricane Protection System Restoration Program Summary, summarizes the levee repairs and enhancements completed by 1 Jun 06 and projected work thru 2010. An Acquisition Strategy is being developed in coordination with the Corps vertical team (HQUSACE, MVD, and Task Force HOPE) to develop optimal contracting methods for executing 3rd and 4th Supplement HPS work within established time lines. Conceptual Design work has been initiated on some of the 4th supplemental work.

Obligations to date for the Lake Pontchartrain and Vicinity project total $517 Million. Obligations to date for the New Orleans to Venice project total $149 Million. Obligations to date for the Mississippi River Tributaries (MR&T) project total $32 Million.

Please provide a summary of the methods being used by the Army Corps to ensure that debris is collected, separated, and disposed of properly.

Response:

Hurricane Katrina and Rita created catastrophic devastation throughout the gulf region. In the State of Louisiana, some 40 million cubic yards of debris were strewn throughout 21 parishes covering almost 15,000 square miles. In order to maintain compliance at federal, state, and local levels for debris management, USACE coordinated daily with Debris Working Groups, comprised of numerous representatives from federal, state, and local agencies, for debris planning and execution.

SPECIFIC QUESTIONS:

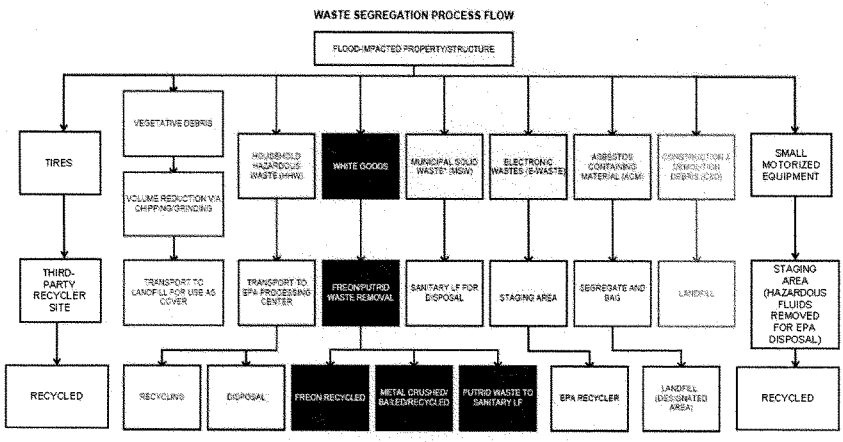
1. Debris Sorting

a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?

Response: From the inception of the response, USACE identified numerous waste streams requiring segregation, collection, processing, staging, recycling, and disposal in order to maintain compliance. These waste streams include the following:

- Municipal solid waste
- Vegetative Debris
- Construction and Demolition Debris
- Small motorized Equipment
- Asbestos
- Electronic Waste
- Household Hazardous Waste (HHW)
- White Goods
- Tires

The following flow diagram illustrates waste stream management USACE incorporated for the response



The following table (Figure 1) identifies quantities of waste streams generated as the result of segregation, processing, recycling, and disposal activities:

Waste Stream	**Quantity**
Vegetative	8.2 M cubic yards
C&D	14.5 M cubic yards
White Goods	800,000 items

HHW	1.4 M items
Electronic Waste	489,000 items
Asbestos	136,000 CY
Tires	95,000 items
Small Motorized Equipment	150,000 items

Robust quality control and quality assurance are provided throughout operations. USACE incorporates quality assurance personnel for field operations; the contractor provides quality control for the same. FEMA utilizes field monitors for field assessments and information sharing. USEPA and OSHA representatives provide field oversight to address public health environment, and worker protection needs respectively. Parish representatives also provide input for field operations.

b. Please include a description of any violations of procedure you detected and how they were resolved?

Response: USACE has not received violations from federal, state, or local agencies as the result of performing mission assignments. However, procedures are improved as the result of interagency and intra-agency coordination. For example, USACE collected house hold hazardous waste (HHW) within Orleans Parish and transported to USEPA HHW staging location for their processing, treatment, recycling, and disposition. Coordination between the agencies resulted in USACE utilizing plastic storage bins for transport of HHW and USEPA removing the bins and replacing them at staging locations, which provided for quicker and safer turn around.

Onsite quality assurance personnel occasionally find contractor noncompliance with established procedures and make on-the spot corrections. Should a trend of noncompliance be detected, contracting officers are notified for appropriate action.

c. How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste?

Response: While USEPA is responsible for handling and disposing of hazardous waste during this response, USACE coordinated with USEPA if hazardous waste was identified. During the frequent conference calls and meetings, USEPA has provided points of contact within each parish and "1-800" phone numbers to call for hazardous waste management. These POCs were contacted and "1-800" numbers called in the event USACE identified hazardous waste.

While USACE collects household hazardous waste in some parishes, USACE transports HHW to a USEPA collection site for their management.

2. Debris Disposal

a. Open Burning

i. What protocols has the Corps established to dictate the disposal method for different types of debris?

Response: USACE does not dictate the disposal method. USACE coordinates with federal, state, and local agencies to identify appropriately permitted landfills. Then USACE determines the most cost-effective and timely manner for disposition using the permitted landfills.

ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?

Response:
- Construction and demolition debris can be disposed of in a Type III landfill
- Municipal Solid Waste can be disposed of in a Type I, II landfill
- Regulated Asbestos Containing Materials (RACM) can be disposed of in an enhanced C&D Landfill or a RACM permitted Type I, II landfill.
- Vegetative debris can be reduced through open burning, if State of Louisiana Department of Environmental Quality, in consultation with Parish Officials, approves and permits it.

See Figure 1 describing waste streams and disposition for more information.

iii. Has the Corps or its contractors conducted any open burning or any air curtain incineration?

Response: Yes.

iv. If so, how many open burns have occurred and where were they located?

Response: USACE has conducted open burning in 36 locations in 16 parishes throughout southern Louisiana. Orleans Parish did not allow open burning of vegetative debris.

v. What have any air sampling test results shown regarding contaminants of concern?

Response: USACE, USEPA, and OSHA have collected samples to identify contaminants during open burning. To evaluate worker protection requirements, USACE collected samples for testing contaminant concentrations for silica, respirable dust, asbestos, and metals. No results were obtained above the permissible exposure limit. USEPA collected samples pursuant to public health and the environment, and OSHA collected samples for worker protection as well. USACE, USEPA, and OSHA discussed test results as the work progressed to monitor operations for public health and

environment as well as worker protection purposes. USACE is not aware of any results that exceeded exposure limits.

vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.

***Response*:** USACE has collected samples for asbestos, silica, respirable dust, and metals analysis, none of which were reported above the permissible exposure levels. USACE does not collect emission rate information for open burning operations.

vii. How is the Corps working to determine when open burning should be used and when it is inappropriate?

***Response*:** Louisiana Department of Environmental Quality (LDEQ), in consultation with Parish officials, determines what reduction method (e.g. burning or grinding) for vegetative debris will be permitted. Air monitoring is performed to evaluate public health and environment as well as worker protection needs.

viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?

Response: USEPA and LDEQ determine criteria for public health and the environment OSHA determines criteria for worker protection

ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict Federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?

***Response*:** Vegetative debris is sorted from other waste streams by dedicated collection teams and transported to staging areas. USACE quality assurance inspectors, FEMA field monitors, and contractor quality control personnel provide oversight for the operations from the curb to staging to burning. This process provides visual confirmation for burning of vegetative debris. LDEQ provides oversight as necessary.

x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?

Response: Consistent with worker protection requirements, workers receive site orientation training, medical monitoring, and surveillance for work functions. Additionally, workers participate in daily safety meetings to share job hazards, personnel protection requirements, and monitoring.

USACE does not coordinate with residents concerning open burn operations.

xi. Who is responsible for this notification process?

***Response*:** USEPA and LADEQ are responsible for public notifications associated with public health and environmental considerations.

b. Asbestos Protocols

i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the Corps in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.

***Response*:** USACE has been coordinating extensively with LDEQ and USEPA to determine applicability of asbestos with Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP) for hurricane generated debris. USEPA has generated No Action Assurance (NAA) Letters for this asbestos response; LDEQ has generated several versions of the *LDEQ Protocol to Comply with the LESHAP Regulations*. The last version is dated May 10, 2006.

USACE provided operational input to USEPA and LDEQ for their consideration in development of NAA letters and the asbestos LESHAP Protocols.

Once FEMA approves structures for demolition, USACE performs asbestos inspections, decommissioning, and demolition activities.

Obtaining administrative records pursuant to demolition has slowed the process.

ii. How are asbestos protocols being communicated to technicians and residents?

***Response*:** Daily safety meetings are conducted with all workers. Prime contractors communicate results of testing with workers at this time as well as post results at field command posts.

iii. Has the asbestos protocol been updated since its adoption?

Response: Yes. LDEQ first addressed asbestos considerations in the LDEQ ACM-handling protocols, State of Louisiana Department of Environmental Quality. Fifth Amended Declaration of Emergency and Administrative Order, Appendix J, [most recent version is dated 31 March 2006 (LDEQ, March 2006)]. LDEQ, in consultation with EPA, has also developed several versions of the *LDEQ Protocol to Comply with the LESHAP Regulations* to provide a basis for asbestos LESHAP compliance.

c. Landfill Capacity

i. Which landfills are being used for debris disposal?

Response: Forty-eight landfills are being used or have been used for the Hurricane Katrina mission and twenty landfills are being or have been used for the Hurricane Rita debris mission. LDEQ regulates and maintains data bases on all of these sites and their permitted capacities.

ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?

Response: USACE requires its debris removal contractors to comply with all applicable federal, state, and local requirements. USACE employs quality assurance personnel to monitor collection and disposal activities. Debris is segregated into categories before disposal at appropriate Type I, II, or III LDEQ permitted landfills.

iii. Is there adequate capacity at area landfills to accommodate debris?

Response: There is an adequate capacity at all area landfills. USACE coordinated extensively with LDEQ in order to identify appropriately permitted landfills that provide sufficient landfill capacity within the state of Louisiana. Early in the event, LDEQ requested that USACE coordinate waste disposal with their office to facilitate proper planning of long-term disposal needs within the State of Louisiana.

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?

Response: LDEQ had made modifications to landfill permits to accommodate debris disposal for both USACE areas of operation and to accommodate the needs of local and Parish governments. LDEQ maintains data bases and files on all these regulated permitted activities.

d. Recycling

i. How do the debris removal contracts promote recycling?

Response: Even though recycling increases scope of work, costs, and timeframes to complete debris removal, USACE, in consultation with USEPA, FEMA, and others opted to recycle several waste streams.

ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?

Response: Consistent with solid waste requirements, the following waste streams were removed from disposal waste streams and recycled.

Waste Stream	Quantity	Disposition
Vegetative	8.2 M cubic yards	Chipped veg. was reused as cover

White Goods	800,000 items	Recycled
Electronic Waste	489,000 items	Recycled
Small Motorized Equipment	150,000 items	Recycled
Tires	95,000 items	Recycled

iii. What analysis has been done as to the impact recycling could have on landfill space?

Response: While USACE is not aware of hurricane Katrina or Rita specific analysis to evaluate impact of recycling on landfill space, USACE, in coordination with USEPA, performed recycling for numerous waste streams; thereby, eliminating them from disposal.

3. Coordination

a. Local governments

i. How is the Army Corps coordinating with local governments?

Response: While FEMA has the lead for communication with local governments, USACE provides Civilian and Military Liaisons to provide a basis for information exchange with local governments.

ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the Army Corps or other agencies.

Response: USACE is not aware of any violations associated with debris management. USACE, FEMA, USEPA, and OSHA provided field representatives to oversee operations for contractual and regulatory compliance. Onsite quality assurance personnel occasionally find contractor noncompliance with established procedures and make on-the spot corrections. Should a trend of noncompliance be detected, contracting officers are notified for appropriate action.

iii. Please describe any differences in the handling of waste by the Army Corps and the local government at landfill locations shared by both entities.

Response: USACE is not aware of differences in handling debris between City of New Orleans and the Corps of Engineers.

b. U.S. Environmental Protection Agency/ Louisiana Department of Environmental Quality

i. Please describe how the Corps is coordinating with EPA and LDEQ to ensure that environmental requirements of the debris mission are fulfilled.

Response: USACE coordinated extensively with EPA and LDEQ as well as numerous other federal, state, and local agencies in the planning and execution of debris removal. For the first 6 months, daily conference calls and weekly meetings were held to provide a basis for input into the planning and execution of the debris mission. Over the last few months, the frequency and duration of calls and meetings has been adjusted for reduced work loads.

Mississippi:

GENERAL QUESTIONS:

First, we ask you to provide a summary of the status of the debris clean-up mission. Specifically, please provide data on the status of the removal from public rights of way, including percent complete and remaining, level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered. In addition, please provide data on the status of debris removal from the entire affected area, including the same information described above.

***Response*:**

The level of USACE effort in Mississippi (MS) went from landfall to a maximum of over 1400 personnel and has reduced now to about 500 personnel. At the peak, the contractor moved over 200,000 cubic yards of debris per day when that was possible. More recently, the debris stream has slowed due to private property pickup and demolitions to about 20,000 to 30,000 cubic yards per day. As of 30 May 2006, we have spent approximately $900 million on the debris mission in MS.

In the 264 days since Hurricane Katrina hit, the USACE contractor has averaged over 74,000 CY per day debris removal. The state as a whole, with many different contractors in addition to the USACE contractors, has removed an average of over 150,000 CY per day in slightly less than 9 months since Katrina struck.

Second, please provide a summary of the factors that the Army Corps has identified as impediments to speeding the pace of debris removal. We understand that the pace of homeowner return is one factor you have identified as a hurdle. Please provide a summary of the actions the Corps is taking independently or in concert with other federal entities to speed the pace of debris removal on private property. Specifically, is the Army Corps taking any action independently or in concert with any other Federal agency to increase the availability of temporary housing or to facilitate the return of residents that were relocated at Federal expense?

***Response*:**

USACE has no authority to take independent actions regarding temporary housing or the movement of victims. The FEMA Blue Roof mission, executed by USACE, in Mississippi made 49,000 homes livable, stopped leaks that would result in mold growth, and effectively made those 49,000 homes usable as shelters. Had the Blue Roof program not be so successful, the need for housing in Mississippi would have more than doubled.

Impediments to debris removal range from the obvious need to have residents return and determine what they want to do with their property, to the less obvious complications created by well meaning politicians who insist that contractors use all local sub-

contractors regardless of their inadequate equipment for a large mission or their personal problems dealing with their own disaster situation at home. The sheer size of the debris mission has been an impediment in that it is almost impossible for those not in the middle of the effort to understand that the debris removal in Mississippi alone is about three times that of Hurricane Andrew, the previous largest USACE debris mission. With The debris removed to date in Mississippi, if loaded into large 100 cubic yard debris trucks and parked bumper to bumper, would stretch from Biloxi, MS to Washington, D.C., west to Boise, ID, and back to Biloxi, MS.

Please provide a detailed summary of the levee repairs and enhancements that the Corps plans to conduct by June 1,2006, the additional work the Corps plans to conduct between 2006 and 2009, and the status of each project, including expenditures to date.

Response:

No levee missions associated with Hurricane Katrina were assigned for Mississippi.

Please provide a summary of the methods being used by the Army Corps to ensure that debris is collected, separated, and disposed of properly.

Response:

All debris removal and disposal is being done according to the regulations, guidance, and oversight of the Mississippi Department of Environmental Quality (MDEQ) and the US Environmental Protection Agency (USEPA). Their regulations specify how waste should be sorted and what types of waste can be placed in various categories of disposal sites.

Waste is sorted at various stages, at pickup, handling at the Temporary Debris Reduction Site (TDRS), and at the landfills. For example, household hazardous wastes and freon containing white goods are separated at the source for management by either the USEPA HazMat Crew or a freon collection contractor. Any electrical goods, hazmat, or freon containing white goods that make it past the curb are segregated at the TDRS facilities and managed according to MDEQ / EPA requirements.

Local governments (State regulated solid waste management districts) are the entities that are responsible for identifying disposal capacity needs, disposal site locations, and debris burning needs. The local governments request permission for all these types of sites from the MDEQ. While the Corps might make recommendations to the local governments regarding the capacity, location, etc. of disposal sites, it is the local government's responsibility and function to manage waste disposal needs in their respective solid waste management district.

SPECIFIC QUESTIONS:

1. Debris Sorting

a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?

Response: Debris sorting is done at the point of generation, at the debris reduction sites, and at the disposal sites. Hazardous waste and white goods are segregated from C&D / vegetative debris and placed on the curb. Freon in white goods is removed before these units are taken to either disposal or recycling. Hazardous waste is pickup by EPA HAZMAT crews. Debris that reaches debris reduction sites is likewise sorted with hazardous waste, tires, electronics, white goods, being segregated from C&D waste. Waste can further be segregated, if necessary, at the final disposal sites. All of the segregated wastes are recycled or taken from disposal in a manner consistent with the regulations of the MDEQ and the USEPA.

b. Please include a description of any violations of procedure you detected and how they were resolved?

Response: In the beginning of the debris pickup mission, there was so much activity that little segregation was done at the point of generation. This resulted in piles of somewhat un-segregated debris at some of the temporary debris reduction sites. This debris is being segregated at these sites, and all waste streams managed according to MDEQ/EPA regulations.

c. How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste?

Response: Both Subtitle C and household hazardous waste that is discovered during debris removal is segregated and picked up for disposal by the USEPA.

2. Debris Disposal

a. Open Burning

i. What protocols has the Corps established to dictate the disposal method for different types of debris?

Response: All debris is disposed of in accordance with MDEQ and USEPA regulations and guidelines.

ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?

Response: MDEQ and EPA regulations dictate which disposal facilities can take various waste streams and the Corps utilizes these regulations in determining where a particular load of waste or waste stream is ultimately sent for disposal. Likewise, the MDEQ must

approve all open burning; what can be burned and the location. The MDEQ, USEPA, and the Corps have inspectors at these facilities to ensure proper waste management.

iii. Has the Corps or its contractors conducted any open burning or any air curtain incineration?

***Response*:** Yes.

iv. If so, how many open burns have occurred and where were they located?

Response: This was only done at locations authorized for open burning by the MDEQ. The only exception was mulch that caught fire from the heat generated by composting. Open burns occurred in Hancock and Forrest Counties.

v. What have any air sampling test results shown regarding contaminants of concern?

Response: Reports we have received from MDEQ, OSHA and the USEPA did not indicate a problem with any contaminants of concern.

vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.

***Response*:** MDEQ, USEPA, and OSHA did the sampling and we have not been notified of exceeding any relevant limits or thresholds on any pollutants.

vii. How is the Corps working to determine when open burning should be used and when it is inappropriate?

***Response*:** Open burning is only done at MDEQ authorized locations and these locations are requested by local governments.

viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?

Response: The MDEQ makes the determinations based on their own criteria. The agency does consider meteorological conditions when authorizing open burning and when issuing bans.

ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict Federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?

Response: No open burning is conducted unless the site and waste stream have been approved by the MDEQ. MDEQ and USEPA oversight of these facilities ensures compliance with Clean Air Act requirements.

x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?

Response: This type of information is provided by local and/or state governments, particularly the MDEQ. These issues have been mentioned in public meetings and the local news. All Corps and Corps contract employees have some level of safety training that covers some or all of these issues.

xi. Who is responsible for this notification process?

Response: The Corps is responsible for notification of its employees and contractors. Local or state governments are responsible for notification of residents.

b. Asbestos Protocols

i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the Corps in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.

Response: Asbestos is managed in accordance with the MDEQ Asbestos NESHAP guidance issued on 3 JAN 06. A copy can be found at http://www.deq.state.ms.us. The Corps did not have any specific input into development of these guidelines. The only "hurdles" in their use were logistical issues that were resolved through increased coordination in the demolition process.

ii. How are asbestos protocols being communicated to technicians and residents?

Response: Public forums sponsored by MDEQ have been available to residents. Corps employees and contractors were given asbestos specific safety training.

iii. Has the asbestos protocol been updated since its adoption?

Response: No.

c. Landfill Capacity

i. Which landfills are being used for debris disposal?

Response: Landfills which are permitted or authorized by the MDEQ for debris disposal are being used by the Corps for that purpose. There are a large number of sites that have

been used as temporary reduction sites in the various counties and usually at least one landfill site in each impacted county.

ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?

Response: Corps site QA's, and MDEQ/USEPA inspectors are onsite to ensure proper debris separation prior to disposal.

iii. Is there adequate capacity at area landfills to accommodate debris?

Response: Yes.

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?

Response: Some Class II rubbish sites were upgraded to Class I rubbish sites to allow for disposal of suspected asbestos containing demolition debris. Some of the temporary debris reduction sites were permitted or authorized by the MDEQ for permanent disposal cells (Class I rubbish type waste) after their operation as temporary debris reduction sites had begun. Only the sub-title D landfills are authorized to take known asbestos waste, although provision was made by MDEQ to upgrade some Class I rubbish sites to handle asbestos.

d. Recycling

i. How do the debris removal contracts promote recycling?

Response: Once the debris reaches the temporary reduction site or landfill, the contractor has the prerogative to salvage materials for recycling and this would save the government the cost of haul out and tipping fees at final disposal.

ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?

Response: Such provisions have not been made. The debris is being disposed of in accordance with MDEQ and USEPA standards. We have, however, worked with Congressman Taylor's office to stockpile the concrete slab material on a property provided by he and the county so that it may be used later for reef building. This same material may be ground and used for the purposes stated in the question.

iii. What analysis has been done as to the impact recycling could have on landfill space?

Response: The local solid waste management district/authority and the MDEQ should be examining this issue. We have attempted to find beneficial uses for wood waste and for concrete slabs. Wood waste has been ground and wood chips offered for beneficial use and concrete slab waste has been stockpiled by locals for possible use as reef material or to be ground and re-used for construction.

3. Coordination

a. Local governments

i. How is the Army Corps coordinating with local governments?

Response: Local governments must request approval for use of all debris sites. The Corps may at times make requests to the local governments for locating a debris site in a certain area. Other than in the debris handling area, the local governments are the applicant for Federal relief under FEMA authority. As the execution arm of the mission for FEMA, we stay in close contact with the local government to make sure that the job we are doing meets their expectations as closely as possible.

ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the Army Corps or other agencies.

Response: None known.

iii. Please describe any differences in the handling of waste by the Army Corps and the local government at landfill locations shared by both entities.

Response: MDEQ / USEPA site monitors/inspectors could better answer this question. We have not concerned ourselves with how the local governments are handling wastes.

b. U.S. Environmental Protection Agency/ Mississippi Department of Environmental Quality

i. Please describe how the Corps is coordinating with EPA and MDEQ to ensure that environmental requirements of the debris mission are fulfilled.

Response: Excellent channels of communication exist between the Corps and these regulatory agencies all the way from the District Office to the field locations. There are weekly meetings between the Corps and MDEQ/EPA on the Coast and frequent phone calls to discuss various issues. An environmental team leader position has been established at the regional field office (RFO) with similar staff at each Emergency Field Office (EFO). These individuals are supported by the District Environmental Compliance Coordinator (ECC), national Corps ECC network, and other individuals at the USACE Vicksburg District (MVK) with expertise in environmental compliance issues.

Alabama

GENERAL QUESTIONS:

First, we ask you to provide a summary of the status of the debris clean-up mission. Specifically, please provide data on the status of the removal from public rights of way, including percent complete and remaining, level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered. In addition, please provide data on the status of debris removal from the entire affected area, including the same information described above.

***Response*:**

All of the Mobile District, U.S. Army Corps of Engineers (Corps) responsibilities for debris removal under Emergency Support Function 3 (ESF-3) on the National Response Plan was in the wake of Hurricane Katrina; there was no debris removal mission within the State of Alabama for Hurricane Rita.

Hurricane Katrina made landfall as a CAT III storm on Aug 29, 2005. Sustained winds in Alabama reached CAT I speeds with a coastal storm surge upward to 12'. The coastal communities of Grand Bay and Bayou La Batre were devastated. Post declaration missions for the state were $115.1M. The Corps, under ESF-3, provided debris removal operations for four counties (Baldwin, Choctaw, Mobile and Sumter) in the State of Alabama. Mission was accomplished by using a pre-position contractor, Phillips and Jordon Inc. The debris mission launched on Sep 1, 2005 and concluded on Feb 14, 2006. The final debris removal tallies included 2.1M cubic yards of debris at a contract cost of approximate $55M (total includes all debris removal from public right of way and 8 residential demolition tasks from private property). Over the course of the debris mission, as many as 185 Corps employees were utilized. In addition, as many as 75 contract employees assisted the Corps with quality assurance (QA) inspection duties.

Second, please provide a summary of the factors that the Army Corps has identified as impediments to speeding the pace of debris removal. We understand that the pace of homeowner return is one factor you have identified as a hurdle. Please provide a summary of the actions the Corps is taking independently or in concert with other federal entities to speed the pace of debris removal on private property. Specifically, is the Army Corps taking any action independently or in concert with any other Federal agency to increase the availability of temporary housing or to facilitate the return of residents that were relocated at Federal expense?

***Response*:**

No significant impediments were recorded for accomplishing the debris removal mission. Lines of communication were established early between the ESF-3 team, FEMA, State EMA and local officials. The Corps' use of experienced Planning and Response Teams

(PRT) and pre-position contractor greatly contributed to the mission success. The experience garnered from the 2004 hurricane season contributed to the success of the Katrina mission. The return of homeowners to the disaster areas was not a factor with executing the mission.

Please provide a detailed summary of the levee repairs and enhancements that the Corps plans to conduct by June 1,2006, the additional work the Corps plans to conduct between 2006 and 2009, and the status of each project, including expenditures to date.

Response:

No levee or long-term recovery missions were assigned for Alabama.

Please provide a summary of the methods being used by the Army Corps to ensure that debris is collected, separated, and disposed of properly.

Response:

Debris removal was accomplished in accordance with our normal mission process.

SPECIFIC QUESTIONS:

1. Debris Sorting

a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?

Response: A press release was issued at the beginning of the debris removal mission. Residents were instructed where on the public right of way to stack their Katrina debris and how to sort the debris (vegetative, construction & demolition, putrid food, household hazardous, white good and electronic debris). For the most part, citizens followed the Corps' advice on sorting debris. The pre-position contract allowed the flexibility for collecting each specific eligible type of debris. Corps personnel and independent contractors serving as QA inspectors made curbside determinations on debris eligibility and classification. All debris was disposed in an approved landfill. The Mobile District provided Internal Review audits to assure compliance.

b. Please include a description of any violations of procedure you detected and how they were resolved?

Response: Several minor violations were noted early in the mission (primarily truck capacity calculations and sorting determinations) but problems were quickly addressed. All household hazardous waste were isolated on-site and left for the EPA. All white goods containing CFC were left on-site and debris contractor crews recaptured

refrigerates before moving. Contractor also sorted putrid food waste and disposed in approved landfill.

c. How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste?

Response: All household hazardous waste were isolated on-site and left for the EPA. All white goods containing CFC were left on-site and debris contractor crews recaptured refrigerates before moving. Contractor also sorted putrid food waste and disposed in an approved landfill.

2. Debris Disposal

a. Open Burning

i. What protocols has the Corps established to dictate the disposal method for different types of debris?

Response: The Corps followed established state guidelines. As far as debris disposal, locally there was enough capacity in approved landfills to properly dispose the debris.

ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?

***Response*:** Of the 2.1M cubic yards of debris disposed from Hurricane Katrina in Alabama only 2.5k cubic yards were reduced via incineration. This insignificant about of vegetative debris was chosen for incineration based on the site conditions of where it was located, within a state owned dredge disposal area containing high Ph levels, and the condition of the debris, all vegetative saturated with leachate.

iii. Has the Corps or its contractors conducted any open burning or any air curtain incineration?

***Response*:** The single air curtain incineration was performed within the Alabama Department of Environmental Management Guidelines for Open Burning of Natural Disaster Debris. The decision to incinerate was a coordinated agreement with FEMA, the State EMA and the Alabama State Port Authority. No air quality monitoring was required. The operation lasted less than a week. The remaining ashes were disposed on-site with existing dredge disposal material. Since the location was remote, several miles from any residence, no public notification was required.

iv. If so, how many open burns have occurred and where were they located?

Response: See 2.a.iii.

v. What have any air sampling test results shown regarding contaminants of concern?

Response: The only contaminates documented were ash.

vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.

***Response*:** The only contaminates documented were ash.

vii. How is the Corps working to determine when open burning should be used and when it is inappropriate?

***Response*:** Not applicable.

viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?

Response: Not applicable.

ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict Federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?

***Response*:** Not applicable.

x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?

Response: Not applicable.

xi. Who is responsible for this notification process?

***Response*:** Not applicable.

b. Asbestos Protocols

i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the Corps in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.

***Response*:** Only one asbestos encounter was noted. During demolition on private property, in Bayou La Batre, a single residence was noted with having non-friable

asbestos siding. The demolition contractor, certified in asbestos removal, followed all state and federal regulations by wetting the material as it was removed from the residence, containing and disposing at an approved landfill. Proper documentation and advance notification was given prior to disposal. Having a certified contractor and locally approved landfill reduced the number of hurdles in the process. Local authorities helped by allowing Corps contractor to tap into local hydrants for soaking the material and by assisting with creating a buffer around the work area.

ii. How are asbestos protocols being communicated to technicians and residents?

Response: The asbestos protocols are part of the demolition contract. Residents of the homes are not on site, and nearby residences are notified through signage at the demolition site. During demolition the contractor continually mists/waters the site to prevent the asbestos from becoming friable.

iii. Has the asbestos protocol been updated since its adoption?

Response: This protocol is the normal procedure for industrial facilities and has not changed since we implemented the demolition process.

c. Landfill Capacity

i. Which landfills are being used for debris disposal?

Response: A total of thirty-three landfills were identified by Corps and County representatives within Baldwin, Choctaw, Mobile and Sumter Counties that were deemed potentially feasible for the deposition of accumulated hurricane debris. Plus the Coffee County Municipal Solid Waste Landfill was identified for disposal of electronic debris. Those sites located within the four-county area actually used for disposing storm debris were as follows: Baldwin County - Magnolia Municipal Landfill, McBride Landfill, and Sunbelt Landfill. Choctaw County - Choctaw Regional Municipal Landfill, and Mosley Pit Disposal Site. Mobile County - Celeste Road Disposal Site, Chastang Municipal Landfill, Chunchula-West Disposal Site , Creola Disposal Site, Dawes Pit Disposal Site, Dirt Inc., Landfill, Hamilton Pit Disposal Site, H & S Landfill, Lott Road Landfill, Stokley Pit Disposal Site, Wade Moore Pit Disposal Site, Walco Pit # 2 Disposal Site, Weaver Pit Disposal Site, Mud Lakes Disposal Site, Coffee County Municipal Solid Waste Landfill (E-waste from Mobile County), Citronelle Old Landfill, Irvington Old Landfill, State Docks, Baker Street Site, and Bay Road Site. Sumter County - Charles Spur Disposal Site and McCainville Road Disposal Site.

ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?

Response: Debris was segregated prior to hauling to each disposal area. A Corps representative and/or a landfill representative was available at each site to inspect debris loads and assure eligibility. Fortunately the abundance of disposal sites allowed for

adequate capacity. The type of debris accepted by each site was known in advance. The Corps considered the type of debris and the shortest haul distance when determining which landfills to use.

iii. Is there adequate capacity at area landfills to accommodate debris?

***Response*:** There is adequate capacity in these landfills.

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?

***Response*:** No modifications were made to the types of waste being disposed at any landfill identified.

d. Recycling

i. How do the debris removal contracts promote recycling?

***Response*:** Debris removal contractors were tasked solely with sorting debris and removing it from the public right of way to the disposal sites. Primary recycling initiatives were left up to the landfills. By pre-sorting materials the landfill operators had the ability to promote recycling. Having debris removal contractors engaged in the business of recycling could lead to conflicts of interest and/or impede the urgency of completing the mission.

ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?

***Response*:** A very small percentage of the eligible debris in Alabama was suitable for construction fill, road bed material or other construction material. Quantities at the level experienced in Alabama made it not feasible or cost effective since the additional segregation and preparation of these materials would significantly slow the clean-up operation and increase costs.

iii. What analysis has been done as to the impact recycling could have on landfill space?

Response: No analysis was conducted in Alabama.

3. Coordination

a. Local governments

i. How is the Army Corps coordinating with local governments?

***Response*:** The entire debris mission was closely coordinated with local governments. Regular meetings were held with leaders of the local municipalities, State EMA, FEMA and the Corps to establish priorities and direct a swift conclusion to the mission. A conscious effort was made by all parties: the debris mission would last until conditions were sufficient for the local authorities to resume operations.

ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the Army Corps or other agencies.

***Response*:** A small amount of illegal dumping was noted, primarily after the Corps' final debris removal pass was completed, and the local government agencies opted to address the issues.

iii. Please describe any differences in the handling of waste by the Army Corps and the City of New Orleans at landfill locations shared by both entities.

***Response*:** Not applicable.

b. U.S. Environmental Protection Agency/Louisiana Department of Environmental Quality

i. Please describe how the Corps is coordinating with EPA and LDEQ to ensure that environmental requirements of the debris mission are fulfilled.

***Response*:** Not applicable.

Texas

GENERAL QUESTIONS:

First, we ask you to provide a summary of the status of the debris clean-up mission. Specifically, please provide data on the status of the removal from public rights of way, including percent complete and remaining, level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered. In addition, please provide data on the status of debris removal from the entire affected area, including the same information described above.

***Response*:**

Hurricane Rita affected Texas. There were 22 counties declared for Public Assistance categories A&B in Texas. Of those 22 counties, 15 counties, and the Alabama-Coushatta Reservation, requested (and received) assistance from the US Army Corps of Engineers with debris. The debris from Hurricane Rita in Texas totaled 4.9 million cubic yards in just the 15 counties and the Alabama-Coushatta Reservation.

The debris clean-up mission in Texas is nearly complete, with all of the eligible debris (100%) having been picked up. The last of the counties to concur and sign in agreement was Orange County in April. We are still reducing the "green" debris and expect the reduction to be complete by June 20, 2006. We are still receiving taskings from FEMA for demolition of houses in Orange county. These are executed as they are received. In all, 600 tours of duty working debris removal were served by federal employees, and at the peak, another 182 contractor personnel performing Quality Assurance duties under the oversight of government personnel. To date a total of 307,812 man-hours (38,477 man-days) have been spent overseeing the debris mission. Of this total, federal personnel have spent 134,292 hours (16,786 man-days) and the contract quality assurance personnel have spent 173,520 hours (21,690 man-days). Total funds obligated for oversight are $25,324,000. Of this total, $15,527,000 were for federal personnel, and $9,797,000 were for the contract quality assurance personnel. $111,591,000 has been obligated for debris removal and demolition contracts.

Second, please provide a summary of the factors that the Army Corps has identified as impediments to speeding the pace of debris removal. We understand that the pace of homeowner return is one factor you have identified as a hurdle. Please provide a summary of the actions the Corps is taking independently or in concert with other federal entities to speed the pace of debris removal on private property. Specifically, is the Army Corps taking any action independently or in concert with any other Federal agency to increase the availability of temporary housing or to facilitate the return of residents that were relocated at Federal expense?

***Response*:**

Major hurdles include the ability of local jurisdictions to verify completion of individual streets as they are completed. The local jurisdictions have many other responsibilities and have difficulty setting time aside for the verification process. It was also difficult for many of the jurisdictions to decide what to do with their debris as FEMA's reimbursement guidance limits the ability of locals to be reimbursed for debris that can later be sold to businesses.

Impediments to debris removal include the ability of the contractor to get crews and equipment to accomplish the work. The major factor being the debris removal effort ongoing in Louisiana and Mississippi. No debris removal on private property was accomplished in Texas by USACE. Temporary housing efforts in Texas consisted of travel trailers at permanent residences and existing parks along with the use of existing rental properties. The state of Texas decided not to pursue the construction of mobile home parks.

Please provide a detailed summary of the levee repairs and enhancements that the Corps plans to conduct by June 1,2006, the additional work the Corps plans to conduct between 2006 and 2009, and the status of each project, including expenditures to date.

Response:

No levee repairs were required in Texas. The Port Arthur hurricane protection levee did not sustain damage to the point of failure.

Please provide a summary of the methods being used by the Army Corps to ensure that debris is collected, separated, and disposed of properly.

Response:

Debris removal was accomplished in accordance with our normal mission process. Woody debris was the initial and major effort. This accounted for nearly 85% of our work. This woody debris (including stumps) was always kept separate from construction and demolition (C&D) material and major appliances (white goods). The woody debris was reduced by chipping (99%) and air curtain burning (1%). The chips were either spread in locations identified and approved by the local jurisdiction, or given away to companies that were able to send trucks to haul the chips away. Air curtain incineration was discontinued due to the problems of the ash piles creating blowing ash that disturbed surrounding neighborhoods.

SPECIFIC QUESTIONS:

1. Debris Sorting

a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?

Response: Debris is sorted at the pickup location. Three categories as described above are hauled to 3 separate locations where quality assurance personnel check the loads and sign the driver's haul ticket for verification of the load. Only woody debris is accepted at reduction sites, only C&D is accepted at the landfill (at the USACE tower), and asbestos containing material is specifically marked. White goods are all taken to a specific location for cleaning and refrigerant removal.

b. Please include a description of any violations of procedure you detected and how they were resolved?

Response: Violations of procedures included contractors picking up ineligible debris and delivery to the incorrect location. Loads were refused if this happened and FEMA and local authorities were notified.

c. How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste?

Response: No industrial wastes (or any industrial debris) were deemed eligible for FEMA debris assistance and those owners had to deal with their debris on their own. No industrial facilities were abandoned due to the hurricane. We therefore had no RCRA subtitle C hazardous wastes that were mixed with C&D debris.

2. Debris Disposal

a. Open Burning

i. What protocols has the Corps established to dictate the disposal method for different types of debris?

Response: Woody debris reduced through chipping and spread on open land or given to industry for fuel or recycling. Woody debris that was reduced by air curtain incineration had the ash disposed in a landfill.

ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?

Response: Ash from air curtain incineration of woody debris and C&D including C&D with asbestos was disposed of in landfills. No debris was reduced through intentional open burning.

iii. Has the Corps or its contractors conducted any open burning or any air curtain incineration?

Response: Air curtain incineration was conducted.

iv. If so, how many open burns have occurred and where were they located?

Response: No open burns occurred.

v. What have any air sampling test results shown regarding contaminants of concern?

Response: The only contaminates documented were ash.

vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.

Response: The only identification of a problem occurred where the local contractor (not USACE) was adjacent to a USACE site and open burning was being conducted by that local contractor. USACE voluntarily shut down air curtain operations.

vii. How is the Corps working to determine when open burning should be used and when it is inappropriate?

Response: Not applicable.

viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?

Response: Not applicable.

ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict Federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?

Response: Not applicable.

x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?

Response: Not applicable.

xi. Who is responsible for this notification process?

Response: Not applicable.

b. Asbestos Protocols

i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the Corps in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.

***Response*:** The only location where we were concerned about asbestos was during the demolition of houses. We tested all of the houses where asbestos containing materials was suspected (in coordination with the Texas Commission on Environmental Quality (TCEQ)). The houses with positive results were demolished as if they were industrial facilities, far above the normal disposal procedures for houses. This is in accordance with the desires of TCEQ.

ii. How are asbestos protocols being communicated to technicians and residents?

***Response*:** The asbestos protocols are part of the demolition contract. Residents of the homes are not on site, and nearby residences are notified through signage at the demolition site.

iii. Has the asbestos protocol been updated since its adoption?

Response: This protocol is the normal procedure for industrial facilities and has not changed since we implemented the demolition process.

c. Landfill Capacity

i. Which landfills are being used for debris disposal?

Response: Golden Triangle Landfill (commercial) and Newton County Landfill (commercial)

ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?

Response: Loads are marked as C&D or demolished homes containing household wastes, or as asbestos containing material.

iii. Is there adequate capacity at area landfills to accommodate debris?

***Response*:** There is adequate capacity in these landfills.

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?

***Response*:** No modifications to normally accepted wastes have been made in Texas to support debris removal by USACE.

d. Recycling

i. How do the debris removal contracts promote recycling?

***Response*:** Debris contracts promote recycling by requiring separation of debris.

ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?

***Response*:** None of the eligible debris in Texas was suitable for construction fill, road bed material or other construction material.

iii. What analysis has been done as to the impact recycling could have on landfill space?

Response: No analysis was conducted in Texas. However, reuse of woody debris was strongly encouraged and no woody debris was land filled with the exception of ash from air curtain incineration.

3. Coordination

a. Local governments

i. How is the Army Corps coordinating with local governments?

***Response*:** USACE worked directly with the county commissioners and County Judges and briefed status at the Commissioners meetings.

ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the Army Corps or other agencies.

***Response*:** No violations known to date.

iii. Please describe any differences in the handling of waste by the Army Corps and the City of New Orleans at landfill locations shared by both entities.

***Response*:** Not applicable.

b. U.S. Environmental Protection Agency/Louisiana Department of Environmental Quality

i. Please describe how the Corps is coordinating with EPA and LDEQ to ensure that environmental requirements of the debris mission are fulfilled.

***Response*:** Not applicable. The Corps worked directly with TCEQ (who represents EPA) in Texas.

Enclosure 2

Louisiana Debris Combination Report

6/19/2006

USACE PPDR Mission ROE

Parish/ Community	Current Estimates Totals	Est CY/PPDR	Total Est CY PPDR	PPDR Complete to Date	PPDR Remaining to Date	CY Complete to Date	CY Remaining to Date	$/ CY Rate + Tip Fees	$ Completed to Date	$ Remaining to Date	% Complete
Orleans	10,000	100	1,000,000	222	9,778	22,200	977,800	$24.61	$546,342	$24,063,658	2%
Plaquemines	900	50	45,000	488	412	24,400	20,600	$27.43	$669,292	$565,058	54%
Jefferson Ph	530	50	26,500	258	272	12,900	13,600	$147.50	$1,902,750	$2,006,000	49%
Jefferson	500	50	25,000	240	260	12,000	13,000	$147.50	$1,770,000	$1,917,500	48%
Grand Isle	30	50	1,500	18	12	900	600	$147.50	$132,750	$88,500	60%
St Charles	900	50	45,000	383	517	19,150	25,850	$147.50	$2,824,625	$3,812,875	43%
Lafourche	100	50	5,000	0	100	0	5,000	$147.50	$0	$737,500	0%
St Tammany	7,075	50	353,750	1,810	5,265	90,500	263,250	$147.50	$13,348,750	$38,829,375	26%
Sun	100	50	5,000	31	69	1,550	3,450	$147.50	$228,625	$508,875	31%
Folsom	25	50	1,250	11	14	550	700	$147.50	$81,125	$103,250	44%
Pearl River	100	50	5,000	46	54	2,300	2,700	$147.50	$339,250	$398,250	46%
Covington	1,100	50	55,000	544	556	27,200	27,800	$147.50	$4,012,000	$4,100,500	49%
Mandeville	750	50	37,500	339	411	16,950	20,550	$147.50	$2,500,125	$3,031,125	45%
Slidell	5,000	50	250,000	839	4,161	41,950	208,050	$147.50	$6,187,625	$30,687,375	17%
Terrebone	50	50	2,500	0	50	0	2,500	$147.50	$0	$368,750	0%
Cameron	1,900	50	95,000	1,785	115	89,250	5,750	$23.57	$2,103,623	$135,528	94%
Calcasieu	750	50	37,500	21	729	1,050	36,450	$37.10	$38,955	$1,352,295	3%
Calcasieu	500	50	25,000	21	479	1,050	23,950	$37.10	$38,955	$888,545	4%
Calcasieu/ Lk Cha	250	50	12,500	0	250	0	12,500	$37.10	$0	$463,750	0%
Vermillion	200	50	10,000	164	36	8,200	1,800	$23.15	$189,830	$41,670	82%
Grand Totals	**22,405**		**1,620,250**	**5,131**	**17,274**	**267,650**	**1,352,600**		**$21,624,167**	**$71,912,709**	**17%**

KATRINA CURBSIDE TOTALS (LA)

6/19/2006	Estimated Debris CY Totals	Estimated PPDR CY Totals	Estimated Curbside CY Totals	Total Debris Hauled To Date (CY)	PPDR Complete to Date(CY)	Curbside CY Totals To Date	Curbside Remaining Total (CY)	$ CY Rate Plus Tip Fees	$ Curbside Completed To Date (CY)	$Curbside CY Remaining	Curbside % Complete	Total % Complete	PPDR & Curbside Remaining Total (CY)
Parish/Community													
Ascension	26,086	0	26,086	26,086	0	26,086	0	$32.79	$855,359.94	0.00	100.00%		
Jefferson	3,650,000	26,500	3,623,500	3,391,677	12,900	3,378,777	244,723	$32.79	$110,790,097.83	8,024,467.17	93.25%		
Lafourche	251,500	5,000	246,500	241,399	0	241,399	5,101	$32.79	$7,915,473.21	167,261.79	97.93%		
Livingston	87,276	0	87,276	87,276	0	87,276	0	$32.79	$2,861,780.04	0.00	100.00%		
Orleans	12,600,000	1,000,000	11,600,000	8,418,241	22,200	8,396,041	3,203,959	$38.99	$327,361,638.59	124,922,361.41	72.38%		
Plaquemines	785,000	45,000	740,000	752,948	24,400	728,548	11,452	$27.43	$19,984,071.64	314,128.36	98.45%		
St Charles	250,000	45,000	205,000	237,723	19,150	218,573	-13,573	$32.79	$7,167,008.67	-445,058.67	106.62%		
St Helena	19,038	0	19,038	19,038	0	19,038	0	$32.79	$624,256.02	0.00	100.00%		
St James	19,868	0	19,868	19,868	0	19,868	0	$32.79	$651,471.72	0.00	100.00%		
St John	29,650	0	29,650	29,650	0	29,650	0	$32.79	$972,223.50	0.00	100.00%		
St Tammany Total	**2,410,591**	**353,750**	**2,056,841**	**2,041,194**	**90,500**	**1,950,694**	**106,147**		**$63,963,256.26**	**5,342,114.01**	94.84%		
Covlington	420,000	55,000	365,000	432,236	27,200	405,036	-40,036	$32.79	$13,281,130.44	0.00	110.97%		
Mandeville	319,000	37,500	281,500	326,881	16,950	309,931	-28,431	$32.79	$10,162,637.49	-932,252.49	110.10%		
Slidell	1,500,000	250,000	1,250,000	1,098,700	41,950	1,056,750	193,250	$32.79	$34,650,832.50	6,336,667.50	84.54%		
Pearl River	88,000	5,000	83,000	93,534	2,300	91,234	-8,234	$32.79	$2,991,562.86	0.00	109.92%		
Sun	57,400	5,000	52,400	62,452	1,550	60,902	-8,502	$32.79	$1,996,976.58	0.00	116.23%		
Folsom	26,191	1,250	24,941	27,391	550	26,841	-1,900	$32.79	$880,116.39	-62,301.00	107.62%		
Tangipahoa	577,863	0	577,863	577,863	0	577,863	0	$32.79	$18,948,127.77	0.00	100.00%		
Totals for Katrina	**20,706,872**	**1,475,250**	**19,231,622**	**15,842,963**	**169,150**	**15,673,813**	**3,557,809**		**$562,094,765.19**	**138,325,274.07**	**81.50%**	**77%**	**4,863,909**

RITA CURBSIDE TOTALS (LA)

Calcasieu	4,400,000	37,500	4,362,500	4,306,105	1,050	4,305,055	57,445	$21.36	$91,955,974.80	1,227,025.20	98.68%		
Cameron	1,200,000	95,000	1,105,000	1,123,366	89,250	1,034,116	70,884	$38.25	$39,554,937.00	2,711,313.00	93.59%		
Lafayette	126,296	0	126,296	126,296	0	126,296	0	$38.25	$4,830,822.00	0.00	100.00%		
Vermilion	385,000	10,000	375,000	365,602	8,200	357,402	17,598	$38.25	$13,670,626.50	0.00	95.31%		
Beauregard	139,506	0	139,506	139,506	0	139,506	0	$38.25	$5,336,104.50	0.00	100.00%		
Jefferson Davis	67,661	0	67,661	67,661	0	67,661	0	$38.25	$2,588,033.25	0.00	100.00%		
Terrebone	146,500	2,500	144,000	143,782	0	143,782	218	$38.25	$5,499,661.50	8,338.50	99.85%		
St Landry	17,290	0	17,290	17,290	0	17,290	0	$38.25	$661,342.50	0.00	100.00%		
Allen	53,166	0	53,166	53,166	0	53,166	0	$38.25	$2,033,599.50	0.00	100.00%		
Totals for Rita	***6,535,419***	***145,000***	***6,390,419***	***6,342,774***	***98,500***	***6,244,274***	***146,145***		***$166,131,101.55***	***3,946,676.70***	***97.71%***	***97%***	192,645
TOTALS BOTH	***27,242,291***	***1,620,250***	***25,622,041***	***22,185,737***	***267,650***	***21,918,087***	***3,703,954***		***$728,225,866.74***	***142,271,950.77***	***85.54%***		

Jefferson and Calcasieu Panshes are cummulative totals for each.

6/19/2006

KATRINA DEMOLITION DEBRIS TOTALS (LA)

Parish/Community	Estimated Demolition Total	Estimated Demolition Total (CY)	Total Struct Demolished To Date (ea)	Total Demo'd To Date (CY))	Struct Rem'g to be Demo'd (Ea)	Total Rem'g to be Demo'd (CY)	$/ Struct	Total Struct Demolished ($)	Struct Rem'g to Demolished ($)	% Complete (structures)	% Complete (CY)
Jefferson	265	66,250	13	3,576	252	62,674	$20,000	$260,000	$5,040,000	5%	
Gretna	24	6,000	0	0	24	6,000	$20,000	$0	$480,000	0%	
Grand Isle	160	40,000	22	2,787	138	37,213	$20,000	$440,000	$2,760,000	14%	
Jean lafitte	160	40,000	58	8,850	102	31,150	$20,000	$1,160,000	$2,040,000	36%	
Orleans	15,000	5,625,000	138	39,554	14,862	5,585,446	$20,000	$2,760,000	$297,240,000	1%	
Plaquemines	1,100	302,500	742	190,432	358	112,068	$20,000	$14,840,000	$7,160,000	67%	
Lafourche	40	10,000	0	0	40	10,000	$20,000	$0	$800,000	0%	
St Tammany Parish											
Covington	25	6,250	0	0	25	6,250	$20,000	$0	$500,000	0%	
Mandeville	25	6,250	0	0	25	6,250	$20,000	$0	$500,000	0%	
Slidell	500	125,000	0	0	500	125,000	$20,000	$0	$10,000,000	0%	
Pearl River	10	2,500	0	0	10	2,500	$20,000	$0	$200,000	0%	
Sun	0	0	0	0	0	0	$20,000	$0	$0	#DIV/0!	
Folsom	1	250	0	0	1	250	$20,000	$0	$20,000	0%	
Katrina Totals	**17,310**	**6,230,000**	**973**	**245,199**	**16,337**	**5,984,801**		**$19,460,000**	**$326,740,000**	**6%**	**3.9%**

RITA DEMOLITION DEBRIS MISSION (LA)

Calcasieu	200	50,000	60	16,986	140	33,014	$20,000	$1,200,000	$2,800,000	30%	
Calcasieu/ Lk Chs	50	12,500	0	0	50	12,500	$20,000	$0	$1,000,000	0%	
Calcasieu/ Sulphur	125	31,250	0	0	125	31,250	$20,000	$0	$2,500,000	0%	
Cameron	450	90,000	284	60,947	166	29,053	$20,000	$5,680,000	$3,320,000	63%	
Terrebone	25	6,250	0	0	25	6,250	$20,000	$0	$500,000	0%	
Vermilion	300	75,000	204	48,508	96	26,492	$20,000	$4,080,000	$1,920,000	68%	
Rita Totals	**1,150**	**265,000**	**548**	**126,441**	**602**	**138,559**		**$10,960,000**	**$12,040,000**	**48%**	**47.7%**
Grand Totals	***18,460***	***6,495,000***	***1,521***	***371,640***	***16,939***	***6,123,360***		***$30,420,000***	***$338,780,000***	***8%***	

CY Estimate (per demo): 375 Orleans, 275 Plaquemines, 200 Cameron, all others 250.

6/19/2006

Curbside, Demolition, PPDR Totals

	Current CY Estimates	Complete CY to Date	Remaining CY to Date	$ Completed to Date	$ Remaining to Date	% Complete
Curbside	25,622,041	21,918,087	3,703,954	$728,225,867	$142,271,951	86%
Demolition	6,495,000	371,640	6,123,360	$30,420,000	$338,780,000	6%
PPDR	1,620,250	267,650	1,352,600	$21,624,167	$71,912,709	17%
Grand Totals	33,737,291	22,557,377	11,179,914	$780,270,033	$552,964,659	67%

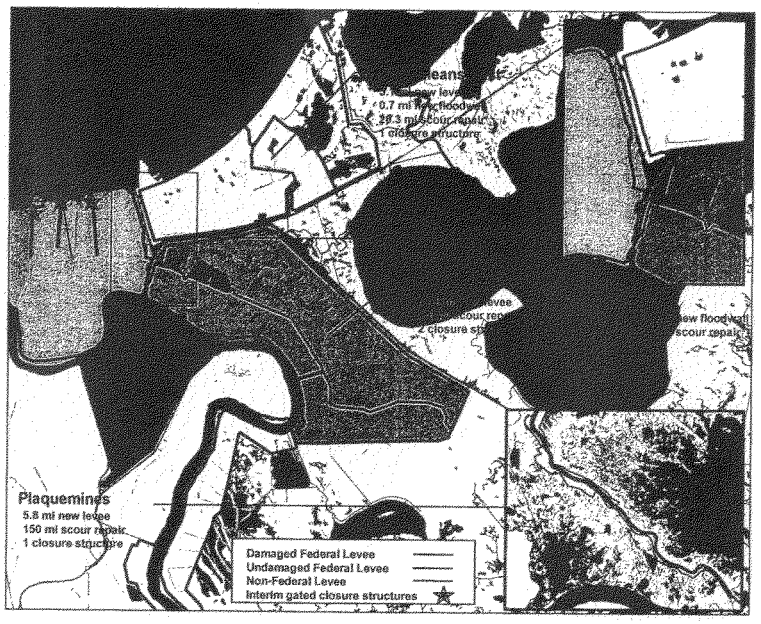
Enclosure 3

Hurricane Protection System Restoration
Program Summary

Hurricane Protection System Restoration Program Summary

Final Report

As of 8 June 2006



Protection Restored Schedule

- Restore pre-Katrina protection by 1 Jun 06
- 100% complete towards pre-Katrina Protection Restored
- All construction complete end of November 06

Program Facts

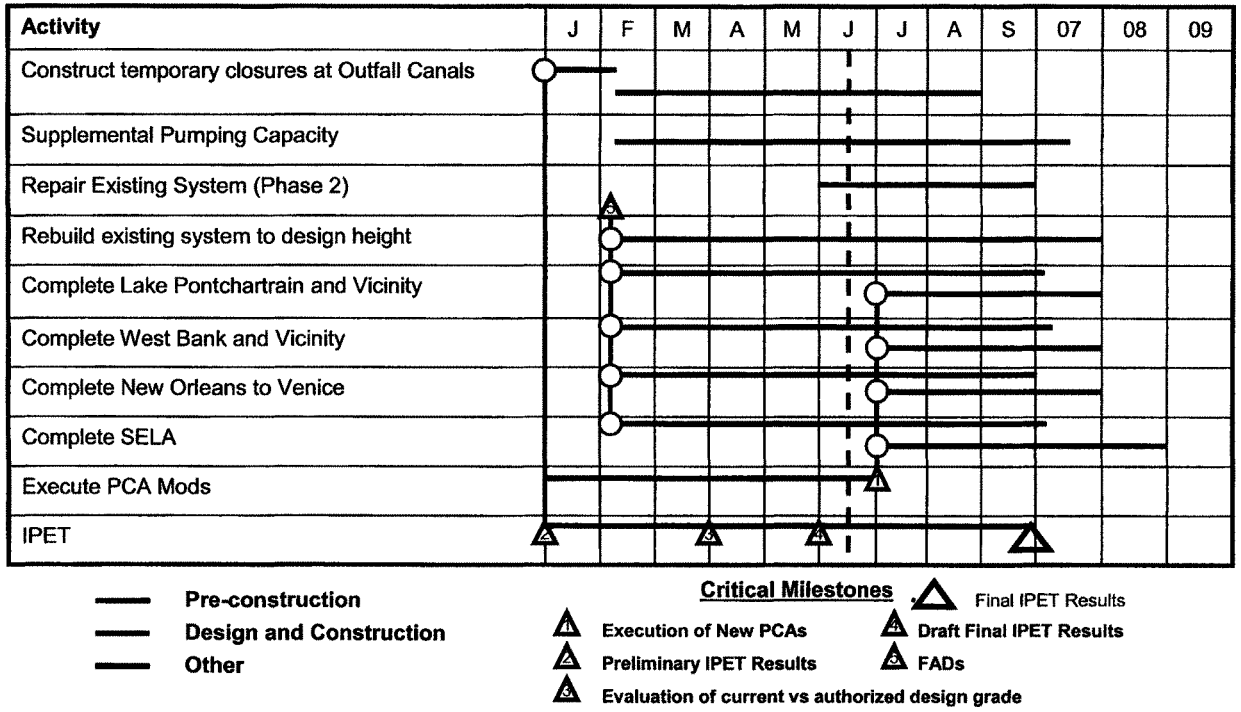
- Repaired system
  - 2.3 mi new floodwall
  - 22.7 mi new levee
  - 195.3 mi scour repair (98 mi MRL completed 17 Mar)
  - 3 interim gated closure structures (IGCS)
  - 4 closure structure repairs
- Fully funded at $800.5M
- Construction
  - 59 projects by 26 Contractors
  - 90% of work by local contractors - 38% by HZ/8(a)
  - $557M in construction activity
- Supply
  - Two supply contracts – clay and temporary pumps
  - 1,566,000 cy of clay supplied to date @ 47.1M
  - 34 IGCS pumps purchased @ $35.3M
- Real Estate
  - 894 acres commandeered
  - 404 ownerships anticipated
  - $63M anticipated property value
- 155 vessels removed from levee

Better and Stronger

- Interim gated closure structures stop surge at Lake
- New levees constructed with erosion resistant clay
- New floodwalls more stable – T/L wall versus I wall
- New erosion protection
  - at damaged overtopped floodwalls
  - at wall/levee transitions
  - at utility crossings

New Orleans and Vicinity Hurricane Protection System

Master Schedule thru 3rd Supplemental - 20 June 06



New Orleans and Vicinity Hurricane Protection System

4th Supplemental Work Master Schedule – **20 June 06**

Activity	F	M	A	M	J	J	A	S	07	08	09	10
IPET Milestones from Funded Schedule			▲3		▲4							
Authority and Funding for Remaining Components						▲5						
Armor Existing System												
Canal Closures and Pumping Stations												
Jump Start Ecosystem Restoration												
Non Federal Levees (Plaquemines Parish)												
IHNC Improvements: Navigable Floodgates												
Storm-Proof Pump Stations												
Raise Levees and Floodwalls to Provide 100 year Level of Protection												
Correct for Final IPET Findings												

Pre-construction
Design and Construction
Other

Critical Milestones

▲3 **Evaluation of base flood elevations**
▲4 **Draft Final IPET Results**
▲5 **Authorization and Funding for Additional Work**

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

May 11, 2006

The Honorable John Paul Woodley
Assistant Secretary of the Army for Civil Works
108 Army Pentagon
3E446
Washington, D.C. 20310

Dear Assistant Secretary Woodley:

We are writing to you regarding the Army Corps' responsibilities for debris removal under Emergency Support Function 3 of the National Response Plan and your activities after Hurricanes Katrina and Rita. We are concerned about the pace and handling of debris cleanup in the affected areas.

There are almost 22 million tons of debris from Katrina and 500,000 tons from Rita. To facilitate redevelopment in the region, it is critical that debris be removed as quickly as possible. It is also critical that debris be collected, separated, and disposed of properly both to protect the health and safety of workers and residents returning to the area and to prevent any long-term environmental or health effects.

First, we ask you to provide a summary of the status of the debris clean-up mission. Specifically, please provide data on the status of the removal from public rights of way, including percent complete and remaining, level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered. In addition, please provide data on the status of debris removal from the entire affected area, including the same information described above.

Second, please provide a summary of the factors that the Army Corps has identified as impediments to speeding the pace of debris removal. We understand that the pace of homeowner return is one factor you have identified as a hurdle. Please provide a summary of the actions the Corps is taking independently or in concert with other federal entities to speed the pace of debris removal on private property. Specifically, is the Army Corps taking any action independently or in concert with any other Federal agency to increase the availability of temporary housing or to facilitate the return of residents that were relocated at Federal expense?

Perhaps the most significant element in the pace of homeowner return to the city is the level of certainty people have about the viability of the flood control system. Please provide a detailed summary of the levee repairs and enhancements that the Corps plans to

conduct by June 1, 2006, the additional work the Corps plans to conduct between 2006 and 2009, and the status of each project, including expenditures to date.

Second, please provide a summary of the methods being used by the Army Corps to ensure that debris is collected, separated, and disposed of properly. In addition to the summary, we ask that you respond to these specific questions:

1 Debris Sorting
   a. How is debris being sorted, and what quality control mechanisms does the Army Corps have in place to ensure that proper sorting is completed prior to disposal?
   b. Please include a description of any violations of procedure you detected and how they were resolved?
   c. How will you ensure the proper handling and disposal of RCRA Subtitle C hazardous waste that is mixed with solid waste or household hazardous waste?

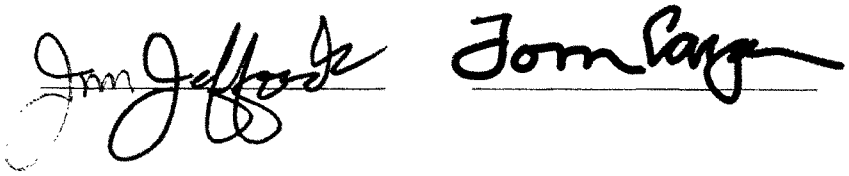
2 Debris Disposal
   a. Open Burning
      i. What protocols has the Corps established to dictate the disposal method for different types of debris?
      ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?
      iii. Has the Corps or its contractors conducted any open burning or any air curtain incineration?
      iv. If so, how many open burns have occurred and where were they located?
      v. What have any air sampling test results shown regarding contaminants of concern?
      vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.
      vii. How is the Corps working to determine when open burning should be used and when it is inappropriate?
      viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?
      ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?
      x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?
      xi. Who is responsible for this notification process?

b. Asbestos Protocols
    i. Please describe the asbestos protocols in use by the Corps for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the Corps in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.
    ii. How are asbestos protocols being communicated to technicians and residents?
    iii. Has the asbestos protocol been updated since its adoption?
c. Landfill Capacity
    i. Which landfills are being used by the Corps for debris disposal?
    ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?
    iii. Is there adequate capacity at area landfills to accommodate debris?
    iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?
d. Recycling
    i. How do the debris removal contracts promote recycling?
    ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?
    iii. What analysis has been done as to the impact recycling could have on landfill space?

3 Coordination
a. Local governments
    i. How is the Army Corps coordinating with local governments?
    ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the Army Corps or other agencies.
    iii. Please describe any differences in the handling of waste by the Army Corps and the City of New Orleans at landfill locations shared by both entities.
b. U.S. Environmental Protection Agency/Louisiana Department of Environmental Quality
    i. Please describe how the Corps is coordinating with EPA and LDEQ to ensure that environmental requirements of the debris mission are fulfilled.

Thank you for your rapid response and evaluation of these issues. The health and safety of the thousands of emergency workers, residents, and visitors to the New Orleans area depends on the Army Corps' efforts to quickly remove and dispose of debris in an appropriate manner.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 17 2006

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Thomas R. Carper
United States Senate
Committee on Environment
and Public Works
Washington, D.C. 20510-6175

Dear Senator Carper:

Thank you for your letter of May 11, 2006, regarding the Environmental Protection Agency's role in debris removal activities undertaken in response to Hurricanes Katrina and Rita.

EPA's responses to your questions are included in the attachment to this letter. If you have any further questions, please contact me or your staff may contact Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at 202-564-1859.

Sincerely,

Susan Parker Bodine
Assistant Administrator

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 17 2006

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable James M. Jeffords
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Committee on Environment
and Public Works
Washington, D.C. 20510-6175

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Thank you for your letter of May 11, 2006, regarding the Environmental Protection Agency's role in debris removal activities undertaken in response to Hurricanes Katrina and Rita.

EPA's responses to your questions are included in the attachment to this letter. If you have any further questions, please contact me or your staff may contact Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at 202-564-1859.

Sincerely,

Susan Parker Bodine
Assistant Administrator

Enclosure

Enclosure

Environmental Protection Agency's Role in Debris Removal Activities in Response to Hurricanes Katrina and Rita

GENERAL QUESTIONS:

First, we ask you to provide a summary of your agency's participation in the debris cleanup mission. Specifically, please provide information on the number of personnel EPA has detailed to the affected area on a daily basis and a description of their missions. Please include a description of the level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered.

Response: Under the National Response Plan, the U. S. Army Corps of Engineers (USACE) is the Coordinator and a Primary Agency for Emergency Support Function #3 (Public Works and Engineering) which includes debris removal. EPA is a Support Agency in areas that include:

- Assisting in locating disposal sites for debris clearance activities;
- Identifying locations and providing safety guidance for areas affected by hazardous materials; ensuring clean up of these areas; and
- Assisting contaminated debris management activities by coordinating and/or providing resources, assessments, data, expertise, technical assistance, monitoring, and other appropriate support.

Under Emergency Support Function #10 (Oil and Hazardous Materials Response), EPA is the Coordinator and a Primary Agency. Appropriate actions under ESF #10 include:

- Efforts to detect, identify, contain, clean up, or dispose of released oil or hazardous materials;
- Removal of drums, barrels, tanks, or other bulk containers that contain oil or hazardous materials;
- Collection of household hazardous waste;
- Permitting, sampling and monitoring; and
- Protection of natural resources.

The federal government does not have exclusive responsibility for debris removal and segregation. State and local governments can also conduct this function.

Level of Effort and Funding: EPA does not have costs and staffing categorized by specific activity. The following is a general description of EPA activities, as well as an overall summary of EPA staffing and expenditures to date.

The tasks that EPA has performed include: search and rescue; environmental sampling and analysis, including air, water, and sediment sampling; collection of household hazardous waste; collection of orphan drums and containers; response to over 70

emergency situations including chemical spills, fires, and other situations causing an immediate public threat; collection of hazardous waste; collection and disposal of ammunition/ordnance and firearms; collection and recycling of electronic goods; assessments of chemical hazards at over 900 schools; removal of hazardous chemicals and equipment from 130 classrooms and laboratories; assessment of over 3,500 potable water trucks; assessment of over 700 public water systems and 1,000 wastewater systems to determine viability after the storm; assessment of approximately 1,300 underground storage tank locations and over 1,600 chemical facilities and refineries; assessment of 250 facilities known to contain radiation sources; and dissemination of information through web pages, flyers and brochures, and meetings with individuals and local governments.

Overall, more than 1,600 EPA employees from all parts of the country have participated in the response. At the height of activities, approximately 245 EPA employees and 1,400 EPA contractors and support personnel were deployed. As of May 2006, 70 to 80 EPA employees and 350 EPA contractors and support personnel are deployed. EPA is gradually completing our response. For example, while work continues in New Orleans, all EPA personnel and equipment were demobilized in Mississippi by June 30, 2006.

With regard to funding, as of the end of May 2006, EPA had expended approximately $376 million for all operations. In addition, EPA has committed $105 million to the US Coast Guard from FEMA funding under ESF #10.

Most of the major hurdles EPA encountered related to the destruction of infrastructure. During the first few weeks after the storm, impassable roads and lack of power, safe water, sewer service, and communication towers delayed the flow of information and hindered response and sampling; for example, the lack of ice and air transportation made it difficult to transport samples to laboratories for analysis. In addition, these conditions made it almost impossible to find housing and food for EPA staff and contractors.

Second, please provide a summary of the actions that EPA has taken and continues to take to ensure that debris is sorted, handled, and disposed of in an appropriate manner.

Response: The Mississippi Department of Environmental Quality (MDEQ) and the Louisiana Department of Environmental Quality (LDEQ) oversee (e.g., by regulation, emergency orders, and field oversight) debris handling and disposal in their respective states. EPA is providing assistance where requested and/or tasked to provide assistance. For example, EPA assigned a liaison officer at Joint Field Offices to serve as a liaison with the USACE, FEMA and state and local governments on debris issues and to participate in scheduled and ad hoc debris meetings and conference calls. Other individuals are assigned to routinely visit landfills to observe waste handling practices and made suggestions on how to improve debris handling practices. EPA supplemented state staff by monitoring the sorting and disposal practices at emergency disposal sites. EPA also used its contractors to collect household hazardous wastes and orphan tanks (propane, diesel) for recycling or proper disposal. EPA also conducted curbside

monitoring in some areas to observe debris handling and offer assistance to the various contractors on how to segregate debris. If problems are encountered, the debris liaison raises the problems and discusses solutions with the appropriate entity/entities. In addition, EPA conducted a major education and outreach effort by distributing brochures and other information to contractors and the general public on how to maximize debris segregation.

SPECIFIC QUESTIONS:

1. Debris Sorting

a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?

Response: Debris sorting is being conducted by contractors for the USACE and, in areas where USACE is not involved, by contractors for local governments. Whether debris is sorted at curbside or at staging areas prior to disposal or recycling depends upon contractor operations, as specified in the relevant USACE or local government contract. Debris is generally sorted by waste type, such as white goods, construction debris, vegetative debris, or household hazardous waste.

There are several mechanisms in place to ensure proper sorting prior to disposal. First of all, there is education. EPA distributes flyers to inform the local officials and public of the proper categories of segregation. Coordination also occurs with the appropriate ESF-3 party responsible for debris (i.e., USACE or local governments). The debris is typically segregated curbside by the party responsible for debris. There are also precautions at the landfills. These operators have signs which indicate what type of material can be disposed in the landfill and they have observation towers and spotters on the ground to inspect the trucks as they enter and deliver the debris. The states are responsible for the regulation of landfill activities. With the assistance of EPA, the states monitor these landfills to promote the proper segregation of waste prior to disposal. Any issues identified are addressed with the landfill operator and through EPA's coordination with the appropriate ESF-3 entity.

In the area of household hazardous waste, EPA operates collection sites where the waste is categorized, bulked and sent off for disposal or recycling.

b. Please include a description of any violations of procedure you detected and how they were resolved?

Response: With assistance from EPA, both LDEQ and MDEQ have monitored landfills and emergency staging sites since the hurricane debris operations began. The level of monitoring and inspection by these states far exceeds the monitoring by MDEQ and LDEQ of normal landfill operations. Because of the daily presence of States or EPA staff, issues at landfills are often remedied quickly. In one case, MDEQ shut down a site when monitors discovered potential adverse impacts to surface water. Subsequently,

MDEQ ordered corrective action at the site. MDEQ and LDEQ continue to monitor these sites and require corrective action when necessary to comply with State law. In Louisiana, there have been instances where incompatible household hazardous waste streams have been placed in the same container and delivered to EPA's household hazardous waste collection sites. These issues have been addressed by the EPA debris liaison meeting with or calling the USACE or the appropriate Parish and discussing the problem and solutions. The same process is used if debris issues are suspected or discovered.

2. Debris Disposal

a. Open Burning

i. What protocols has EPA established to dictate the disposal method for different types of debris?

Response: EPA did not establish protocols to dictate the disposal method for different types of non-hazardous waste debris. The disposal of solid waste is regulated under state authorities in both Louisiana and Mississippi. For hazardous waste, which EPA handles under our ESF-10 responsibilities, EPA follows state and federal regulations for all hazardous materials that are collected under our ESF-10 mission assignment.

ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?

Response: In Mississippi and Louisiana, debris was disposed of in landfills authorized to accept the specific type of debris (e.g., vegetative debris only, or construction and demolition [C&D] waste). MDEQ allowed the open burning of vegetative or clean wood debris only under an emergency order which set specific parameters under which such burning could take place. Similarly, in Louisiana, EPA is aware of open burning of vegetative debris only.

iii. Is the EPA aware of any open burning or any air curtain incineration that has occurred?

Response: Vegetative debris disposal has occurred in Mississippi and Louisiana by open burning and air curtain incineration.

iv. If so, how many open burns have occurred and where were they located?

Response: In Mississippi, there were approximately 13 burn sites in Hancock County, 21 sites in Harrison County and one site in Jackson County. Not all of these were necessarily operating at the same time. Under an emergency order issued by MDEQ after Hurricane Katrina, local fire departments approved the specific location of open burning sites consistent with the parameters set by MDEQ and local fire codes.

In Louisiana, there were approximately 145 burn sites total. The majority were in Calcasieu, Cameron, Beauregard, and St. Tammany Parishes. Local fire departments and governments were consulted before the approval of any burn sites.

v. What have any air sampling test results shown regarding contaminants of concern?

Response: EPA has conducted two types of air monitoring for the hurricane response. One type of air monitoring is the use of stationary monitors to conduct ambient monitoring of the overall air quality. The second type is perimeter monitoring where EPA uses portable equipment to conduct air monitoring of specific activities (i.e., debris grinding).

In Mississippi, ambient air monitoring has occurred at three fixed sites and six portable sites. This monitoring has generally shown values that are below conservative health-based screening values that were selected to evaluate hurricane-related data. Mississippi monitors have recorded frequent values above the screening level for acrolein and infrequent values above the screening level for particulate matter with a diameter of 2.5 microns or less, formaldehyde, and acetonitrile. In no case have the air quality monitors recorded acutely toxic levels of these pollutants, and we are unable to attribute the monitored levels to hurricane debris burning.

Acrolein is the only pollutant that exceeded screening levels at monitoring sites in the Katrina-impacted areas of Louisiana. Further evaluation showed that those concentrations are similar to concentrations observed elsewhere in the United States and are not indicative of Katrina recovery-related impacts. The screening level for acrolein (0.09 µg/m3) is very low compared to other VOCs, which may explain the frequency of exceedances. The lack of previous monitoring data for acrolein in the local area and elsewhere precludes consideration of ambient background levels (i.e., background concentrations are considered when setting health benchmarks). Data collection using a new measurement method started in July 2005 at the National Air Toxics Trends Sites (NATTS). EPA national-scale modeling work has separately identified acrolein as a pollutant for attention nationally. The data from New Orleans are usually close to the average concentration measured elsewhere and are very similar to concentrations at Tupelo, Mississippi, which is over 300 miles from New Orleans and was not as severely affected by Katrina. These concentrations are not abnormally high for sites in the southeastern United States. Acrolein is emitted in industrial processes as a chemical intermediate, in incomplete combustion processes such as vehicle exhaust and forest fires, and as a photo-oxidation product of 1,3-butadiene.

vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.

Response: EPA did not collect information on emission rates at any open burn sites. EPA only has ambient air quality information, rather than emissions data, because the monitoring equipment we are using does not measure emissions at a source. Instead, the

ambient monitors measure the concentration of pollutants in the air downwind of a source.

Although EPA detected pollutants above conservative health-based screening values, as described in response 2.a.v. above, these concentrations are not abnormally high for sites in the southeastern United States. All of EPA's environmental sampling results are available on the EPA webpage: http://www.epa.gov/katrina/testresults/index.html.

vii. How is the EPA working to determine when open burning should be used and when it is inappropriate?

***Response*:** EPA does not make this determination. However, all air monitoring data collected by EPA are shared with the states since the states approve and oversee open burning sites.

viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?

Response: In Mississippi, local fire departments have day-to-day control over open burning sites. Under an emergency order issued immediately after the hurricane, MDEQ established strict parameters for open burning sites and local fire departments approved the actual open burning sites. The fire departments factored in meteorological conditions when approving open burning. In Louisiana, LDEQ made sure that wind direction and other meteorological conditions were suitable for open burning at every site. Additionally, local fire departments were notified of burn activity and site locations.

ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict Federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?

***Response*:** MDEQ only allowed burning of vegetative debris or clean wood, thereby ensuring compliance with the Clean Air Act. In Louisiana, LDEQ made all oversight and compliance determinations under the Clean Air Act.

x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?

Response: This is a state/local responsibility. For example, in Mississippi, local fire departments monitored the open burn sites. Each site had to meet criteria set by MDEQ and approved by the local fire department. The local fire departments monitored each site and kept local citizens apprised of the burns. On a few occasions, residents complained of open burning operations and MDEQ required that those operations be moved.

xi. Who is responsible for this notification process?

Response: This is a state/local responsibility.

b. Asbestos Protocols

i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the EPA in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.

Response: On January 3, 2006, MDEQ issued its final "Policy for Handling Demolitions of Structures to Address Potential Asbestos." Mississippi discussed this policy with EPA which determined that it was fully consistent with the Federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements. To assist in the development of the policy and to coordinate activities EPA scheduled weekly calls with MDEQ, FEMA and the USACE personnel (from September 2005 through February 2006).

As demonstrated in the following chronology, the January 3, 2006, policy was the culmination of substantial work.

On September 4, 2005, MDEQ published a draft "Building and Structural Debris Guidance" on its website. This document, prepared on an expedited basis without input from EPA, briefly outlined procedures for demolishing residential, commercial and public buildings.

On September 16, 2005, EPA Region 4 issued the guidance document, "Demolition of Structurally Unsound Buildings Damaged by Katrina." This document provided guidance on identification of asbestos-containing materials (ACM); notification requirements for commencing demolition; federal work practice requirements during the demolition phase; best practice recommendations for demolition; the feasibility of removing ACM; and transport and disposal of asbestos containing waste material.

During October and November 2005, discussions continued among EPA, MDEQ, FEMA and USACE about the best way to comply with asbestos demolition and disposal requirements, while expediting the pace of cleanup. On November 18, 2005, EPA informed MDEQ, FEMA and USACE of its regulatory interpretation that the asbestos NESHAP applied to demolition of houses that were moved off their foundation, but which were still standing. NESHAP requirements are less stringent if local authorities determined that a residential structure was structurally unsound and in danger of imminent collapse.

On December 16, 2005, MDEQ posted a revised "Guidance for Handling Asbestos for Demolition" on its website. With input from Region 4 and EPA Headquarters, MDEQ subsequently revised this Guidance to clarify how the asbestos NESHAP applies to

demolition of residential structures that are structurally unsound and in danger of imminent collapse and to include more information about the proper transport and disposal of potential ACM. MDEQ incorporated these revisions in the January 3, 2006, policy referred to above. This policy remains in place and is supported by EPA, MDEQ, FEMA and the USACE.

On January 3, 2006, MDEQ also posted on its website a brief guidance, "Procedures for Best Management Practices for the Ordered Demolition of Residential Structures in Imminent Danger of Collapse," which provides practical information on how to minimize exposure to asbestos during demolition activities. To provide updated information to the public and local officials on where to find certified asbestos contractors, inspectors and landfills authorized to accept ACM, MDEQ also provides updated lists of those resources with contact information on its website.

In a February 13, 2006, letter, MDEQ requested that EPA issue a No Action Assurance (NAA) from certain provisions of the asbestos NESHAP for demolition activities necessitated by Hurricane Katrina. On February 24, 2006, EPA issued a NAA letter to Mississippi. At the request of Louisiana, on October 21, 2005, February 3, 2006, February 24, 2006, and April 28, 2006, EPA issued NAA letters to Louisiana. These NAA letters provided additional flexibility under the federal asbestos NESHAP program, allowing certain residential demolition and disposal activities to move forward more expeditiously while still protecting public health and the environment.

LDEQ developed and submitted to EPA for review a protocol to comply with Louisiana Emission Standards for Hazardous Air Pollutants regulations. On March 1, 2006, EPA reviewed the final draft and found it to be consistent with NESHAP and the February 3 and February 24, 2006, NAAs described above.

LDEQ also developed and submitted to EPA for review guidance for conducting a thorough asbestos inspection and a matrix to summarize NESHAP requirements and the flexibility afforded by EPA's NAAs as related to various types of homes (e.g. structurally sound vs. structurally unsound and in danger of imminent collapse homes).

ii. How are asbestos protocols being communicated to technicians and residents?

Response: In Mississippi, the asbestos protocols were communicated to interested parties primarily through MDEQ's website. MDEQ also published lists of certified asbestos contractors, certified asbestos inspectors, and landfills approved for accepting ACM. In December 2005, MDEQ held an asbestos demolition training session for certified inspectors. On January 24, 2006, MDEQ, with support from EPA, provided asbestos demolition training to private demolition and removal contractors, FEMA, USACE, OSHA and local government agencies. MDEQ also held regularly scheduled "general debris and safety meetings" with local government agencies.

In Louisiana, training was held by LDEQ (with EPA support) for the USACE, FEMA, and various parishes on NESHAP, LESHAP, and the flexibility of the NAAs.

LDEQ sent letters to various parish governments on March 7, 2006, to share the NAAs and the guidance/matrix described above.

iii. Has the asbestos protocol been updated since its adoption?

Response: In Mississippi, the asbestos protocol has not been updated since the publication of the MDEQ "Policy for Handling Demolitions of Structures to Address Potential Asbestos" on January 3, 2006. In Louisiana, the asbestos protocol was updated in May 2006. The changes provided clarity regarding grinding, reemphasizing that there is to be no grinding of ACM.

iv. How is the asbestos protocol approved by the Louisiana DEQ for use at the Gentilly Landfill different than standard asbestos handling protocols? Please identify any increased or decreased risk that may exist with such protocols?

Response: EPA is not aware of any protocol specific to Gentilly.

c. Landfill Capacity

i. Which landfills are being used for debris disposal?

Response: Under Mississippi regulations, construction and demolition debris is classified as rubbish. There are 150 rubbish landfills statewide that can accept various types of debris generated by hurricanes. In addition, MDEQ granted emergency permits to an additional 12 landfills along the Mississippi Gulf Coast specifically to receive hurricane debris.

In Louisiana, USACE reports that 48 landfills are being used or have been used for the Hurricane Katrina mission and twenty landfills are being or have been used for the Hurricane Rita debris mission. LDEQ regulates and maintains data bases on all of these sites and their permitted capacities.

ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?

Response: Please see the response to question 1.a.

iii. Is there adequate capacity at area landfills to accommodate debris?

Response: Both Louisiana and Mississippi indicate that there is adequate landfill capacity to accommodate the debris.

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?

Response: Mississippi has not modified the types of waste that may be disposed at area landfills. Instead, wastes are disposed in landfills authorized to accept the particular waste type (i.e., building debris, scrap metal, concrete debris, etc.) or are sent to recyclers. Mississippi has temporarily authorized selected Class I rubbish sites to upgrade their materials handling practices to allow them to accept building and structural debris that may contain suspect asbestos containing materials. This applies only to debris resulting from the demolition of residential structures occurring under the order of a state or local government agency because the structure is unsound and in danger of imminent collapse as a result of Hurricane Katrina. Details of these sites are available on MDEQ's website.

LDEQ had made some modifications to accommodate debris disposal for both USACE areas of operation and to accommodate the needs of local and Parish governments. For example, certain household items such as mattresses, carpets, and furniture can now be disposed of C& D landfills. In addition, some landfills have been enhanced to allow them to accept asbestos containing material. LDEQ maintains data bases and files on all these regulated activities.

v. How is EPA ensuring that the debris delivered to area landfills actually meets the requirements for waste that may be accepted at those landfills?

Response: See 2.c.ii above.

vi. How many personnel does EPA have detailed to the affected area for landfill inspection, observation, or other functions?

Response: At the height of operations, EPA assigned as many as eleven employees to assist Louisiana and Mississippi with landfill monitoring.

Information on the total number of staff assigned to the Gulf Coast mission is provided in response to the first general question.

d. Recycling

i. How do the debris removal contracts promote recycling?

Response: EPA is not a party to any debris removal contracts; however, EPA has worked with the USACE to encourage as much recycling as possible. The USACE modified some of their contracts to allow for/provide an incentive for HHW and electronic waste segregation as a result of this coordination. Some additional examples of recycling include: white goods and scrap metal being recycled; concrete being crushed for use in roadbeds and as fill material; and organic debris being used for soil amendment and energy generation.

ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?

Response: In Mississippi, at some debris staging areas, concrete is segregated and crushed for use in constructing roadbeds and construction fill. It is inappropriate to use vegetative debris and wood construction debris for this purpose.

In Louisiana, EPA is not aware of any specific directions for use of hurricane debris as construction fill or road bed materials. EPA works with Louisiana and the parishes to encourage recycling.

iii. What analysis has been done as to the impact recycling could have on landfill space?

Response: No formal analysis has been conducted. However, EPA estimates that its recycling efforts have prevented over 11 million pounds of white goods and over 13 million pounds of electronic waste from disposal in landfills.

3. Coordination

a. Local governments

i. How is the EPA coordinating with local governments?

Response: EPA has worked extensively with the local governments and assigned liaisons to work directly with their staff to establish household hazardous waste collection days and sites. EPA also distributed information to citizens which described where they could take household hazardous wastes or when EPA would pick up household hazardous wastes in their neighborhoods. EPA also assisted in securing right of entry authorizations to remove hazardous wastes from private property and assigned personnel to act as liaisons with affected local governments.

ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the EPA or other agencies.

Response: EPA does not regulate solid waste landfills. However, as explained above, most improper disposal issues were addressed quickly because of the monitoring by state or EPA staff. LDEQ and MDEQ followed up on any problems, but they do so through their own authority under state law. If potential illegal dumping is identified, EPA refers this to the appropriate state agency for follow up.

iii. Please describe any differences in the handling of waste by the entities conducting debris removal, such as Army Corps and the City of New Orleans, at landfill locations shared by both entities.

Response: The City of New Orleans does not collect hazardous materials; the USACE collects household hazardous waste and brings this material to EPA's household hazardous waste collection area.

b. State and Federal Agencies

i. Please describe how the EPA is coordinating with LDEQ and the Army Corps of Engineers to ensure that environmental requirements of the debris mission are fulfilled.

Response: EPA coordinated extensively with USACE and LDEQ. For the first six months, daily conference calls and weekly meetings were held to provide a basis for input into the planning and execution of the debris mission. Over the last few months, the frequency and duration of calls and meetings has been adjusted.

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

May 11, 2006

The Honorable Stephen Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Johnson:

We are writing to you regarding the Environmental Protection Agency's role in debris removal activities undertaken in response to Hurricanes Katrina and Rita. We are concerned about the pace and handling of debris cleanup in the affected areas.

There are almost 22 million tons of debris from Katrina and 500,000 tons from Rita. To facilitate redevelopment in the region, it is critical that debris be removed as quickly as possible. It is also critical that debris be collected, separated, and disposed of properly both to protect the health and safety of workers and residents returning to the area and to prevent any long-term environmental or health effects.

First, we ask you to provide a summary of your agency's participation in the debris clean-up mission. Specifically, please provide information on the number of personnel EPA has detailed to the affected area on a daily basis and a description of their missions. Please include a description of the level of effort history and projections (including manpower and funding requirements), funds expended, and a description of any major hurdles you have encountered.

Second, please provide a summary of the actions that EPA has taken and continues to take to ensure that debris is sorted, handled, and disposed of in an appropriate manner. In addition to the summary, we ask that you respond to these specific questions:

1. Debris Sorting
    a. How is debris being sorted, and what quality control mechanisms are in place to ensure that proper sorting is completed prior to disposal?
    b. Please include a description of any violations of procedure you detected and how they were resolved?

2 Debris Disposal
   a. Open Burning
      i. What protocols has EPA established to dictate the disposal method for different types of debris?
      ii. Specifically, what types of debris are to be disposed of in landfills or through open burning?
      iii. Is the EPA aware of any open burning or any air curtain incineration that has occurred?
      iv. If so, how many open burns have occurred and where were they located?
      v. What have any air sampling test results shown regarding contaminants of concern?
      vi. Please identify all pollutants identified, the emission rates and whether each rate exceeds relevant limits or thresholds.
      vii. How is the EPA working to determine when open burning should be used and when it is inappropriate?
      viii. What criteria are being used to make those determinations, who has made them, and are meteorological conditions being considered?
      ix. Please describe how any open burning conducted to date by the Corps complies with section 129 of the Clean Air Act, exempting incinerators from strict federal regulation only if the debris is analyzed and known to be only clean wood and vegetative materials?
      x. What information has been and will be provided to technicians and residents regarding planned open burns and precautions they should take during that time?
      xi. Who is responsible for this notification process?
   b. Asbestos Protocols
      i. Please describe the asbestos protocols in use for both handling and removal of asbestos-containing material. Please include the source of the protocols, their date of issuance, a description of the role of the EPA in developing these protocols, and any hurdles in their use that have been identified and the plan to resolve those hurdles.
      ii. How are asbestos protocols being communicated to technicians and residents?
      iii. Has the asbestos protocol been updated since its adoption?
      iv. How is the asbestos protocol approved by the Louisiana DEQ for use at the Gentilly Landfill different than standard asbestos handling protocols? Please identify any increased or decreased risk that may exist with such protocols?
   c. Landfill Capacity
      i. Which landfills are being used for debris disposal?
      ii. What protections are in place at the landfills to ensure that debris has been properly separated prior to disposal?
      iii. Is there adequate capacity at area landfills to accommodate debris?

iv. Have any modifications been made to the types of waste that may be disposed of at any area landfills, and if so, what are they?
v. How is EPA ensuring that the debris delivered to area landfills actually meets the requirements for waste that may be accepted at those landfills?
vi. How many personnel does EPA have detailed to the affected area for landfill inspection, observation, or other functions?

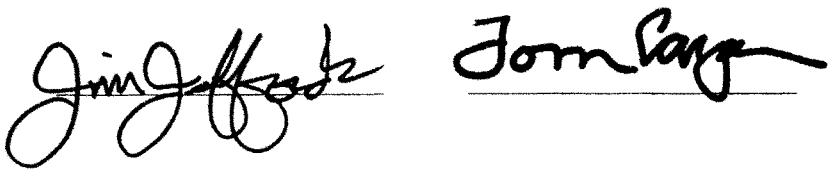
d. Recycling
i. How do the debris removal contracts promote recycling?
ii. What provisions have been made for or directions provided to contractors for the use of hurricane debris as construction fill, road bed material and other re-uses that could speed the cleanup of communities?
iii. What analysis has been done as to the impact recycling could have on landfill space?

3. Coordination
a. Local governments
i. How is the EPA coordinating with local governments?
ii. Have any violations of dumping and sorting debris been identified? If so, please describe them, the corrective actions that were taken, and the status of any ongoing investigations by the EPA or other agencies.
iii. Please describe any differences in the handling of waste by the entities conducting debris removal, such as Army Corps and the City of New Orleans, at landfill locations shared by both entities.

b. State and Federal Agencies
i. Please describe how the EPA is coordinating with LDEQ and the Army Corps of Engineers to ensure that environmental requirements of the debris mission are fulfilled.

Thank you for your rapid response and evaluation of these issues. The health and safety of the thousands of emergency workers, residents, and visitors to the New Orleans area depends on the EPA's efforts to ensure that debris is removed quickly in an appropriate manner.

Sincerely,



CITY OF NEW ORLEANS

C. RAY NAGIN, MAYOR

July 18, 2006

Mr. Chuck Carr Brown, Ph. D.
Assistant Secretary
Louisiana Department of Environmental Quality
P. O. Box 4313
Baton Rouge, Louisiana 70821-4913

Re: Chef Menteur Landfill

Dear Mr. Brown:

I am in receipt of your letter of July 14, 2006 concerning the Chef Menteur Landfill. I regret any misunderstanding or confusion that my press release may have caused. All I intended to convey was my intention not to renew or extend my Executive Order (Executive Order CRN 06-03). As I tried to make clear at the time that my executive order was signed on February 14, 2006, I felt that there was a strong and serious need to provide for a facility to accept construction and demolition debris on an immediate basis. The normal process for securing conditional use approval and permits for a landfill of this type would take a minimum of eight to ten weeks, and I understood the immediate need in this instance. Accordingly, I issued my executive order to suspend those provisions of the Comprehensive Zoning Ordinance that would have required the conditional use process. That executive order was for a period of six (6) months, and I have expressed my intention not to renew or extend that order.

If you wish to discuss this matter further, I am authorizing the City Attorney to respond to further inquiries. You may call her, Penya Moses-Fields, at (504) 658-9910.

Sincerely,

C. Ray Nagin
Mayor

c: Penya Moses-Fields, City Attorney

1300 PERDIDO STREET | SUITE 2E04 | NEW ORLEANS, LOUISIANA | 70112
PHONE 504.658.4900 | FAX 504.658.4938

AGREEMENT BETWEEN
THE CITY OF NEW ORLEANS
AND
WASTE MANAGEMENT OF LOUISIANA, L.L.C.

THIS AGREEMENT, made and entered into this 14th day of February, 2006, by and between the City of New Orleans, herein represented by C. Ray Nagin, Mayor, ("City") and Waste Management of Louisiana, L.L.C., herein represented by Timothy B. Hawkins, Vice President, ("Waste Management") witnesses that,

WHEREAS, the City has an immediate need to provide an alternative location for the deposit of construction and demolition debris ("C&D");

WHEREAS, Waste Management is seeking to operate a construction and demolition debris landfill at 16600 Chef Menteur Highway, New Orleans East, in Orleans Parish, Louisiana;

NOW, THEREFORE, the City and Waste Management, under the conditions set forth, agree as follows:

1. Waste Management must provide adequate lighting to Chief Menteur Highway along the entrance road to the landfill site.

2. Waste Management shall be responsible for daily collection of all litter along Chef Menteur Highway, approximately one-half mile to the east and west of the site entrance.

3. Waste Management must provide qualified monitoring to ensure that only approved construction and demolition waste is accepted.

4. Waste Management must provide the City with documentation of the financial assurance mechanism to guarantee that sufficient funds are available for the closure and post closure care requirements.

5. As required, Waste Management shall apply for a conditional use permit through the City Planning Commission.

6. The City, under its emergency powers, hereby approves Waste Management's proposed Chef Menteur Landfill as an emergency C&D disposal site, and the City has signed the applicable approval forms promulgated by LDEQ evidencing its approval for such use.

[Signatures on the following page]

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement effective the day and year first above written:

WITNESS:

CITY OF NEW ORLEANS

By: C. RAY NAGIN, MAYOR

WASTE MANAGEMENT OF LOUISIANA, L.L.C

BY: TIMOTHY C. B. HAWKINS, VICE PRESIDENT

ACT OF DONATION

STATE OF LOUISIANA
PARISH OF ORLEANS

Before me, the undersigned authority, duly commissioned and qualified in and for the parish and state aforesaid, and before the undersigned competent witnesses, came and appeared **Waste Management of Louisiana, L.L.C.,** represented herein by Timothy B. Hawkins, Vice President, ("Waste Management"), which hereby agrees, subject to the terms and conditions set forth herein, to donate and deliver to the **City of New Orleans,** a political subdivision of the state of Louisiana, herein represented by C. Ray Nagin, Mayor ("City"), which hereby accepts the within donation of the following described movable property ("Donation"):

> 22% of the gross revenue received by Waste Management for the disposal of waste at the construction and demolition debris landfill site at 16600 Chef Menteur Highway in New Orleans, Louisiana, including the disposal gross revenue that will be received from all waste delivered by or on behalf of Waste Management. Gross revenue shall not include any taxes, fees or surcharges received and that apply to any waste received.

Waste Management will submit the calculation to the City along with payment and will give the City the opportunity to validate the calculation. The Donation shall become effective upon, and continue so long as, Waste Management's disposal operations continue at the landfill.

Pursuant to Louisiana Constitution Article 6 Section 23 and 26 U.S.C. 170 (f)(8), the City of New Orleans accepts and acknowledges the Donation and states that the City of New Orleans has provided neither goods nor services in consideration, in whole or in part, for the Donation.

Signed this 14th day of February, 2006

WITNESSES

WASTE MANAGEMENT OF LOUISIANA,

By: BY: TIMOTHY B. HAWKINS, VICE PRESIDENT

EDWARD R. WASHINGTON II NOTARY 2135

Notary Public, My Commission Expires at Death

Signed this 14th day of February 2006.

WITNESSES:

CITY OF NEW ORLEANS

By: C. RAY NAGIN, MAYOR

EDWARD R. WASHINGTON NOTARY 2135

Notary Public, My Commission Expires at Death

CITY OF NEW ORLEANS
Tradition in Progress

OFFICE OF THE MAYOR

C. RAY NAGIN
MAYOR

EXECUTIVE ORDER
CRN 06-03

CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL

PURPOSE: TO SUSPEND PROVISIONS OF THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW A CONSTRUCTION AND DEMOLITION LANDFILL AT A CERTAIN LOCATION

WHEREAS, pursuant to the Home Rule Charter of the City of New Orleans and the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. Rev. Stat. 29:721, *et seq.*, I issued Proclamations declaring a State of Emergency in the City of New Orleans and the Parish of Orleans which have been amended and renewed;

WHEREAS, the passage of Hurricane Katrina through the City of New Orleans caused widespread flooding and devastation rendering many homes and businesses uninhabitable and produced vast amounts of debris;

WHEREAS, the recovery and restoration efforts to remove debris has produced a need to secure supplementary waste deposit sites and/or facilities;

WHEREAS, it is projected that the rate of demolition and construction intrinsic to the ongoing recovery efforts of residents and businesses in the City will produce a substantial volume of construction and demolition debris;

WHEREAS, the threatened closure of the only construction and demolition debris landfill site in the City necessitate the immediate opening of an alternative temporary location;

WHEREAS, Waste Management is submitting a plan for closure of the construction and demolition debris site operated under this Order;

WHEREAS, Waste Management will enter into an Agreement with the City of New Orleans to ensure that financial assurances for proper closure are in place, as well as to provide

for additional operational guarantees to minimize adverse impacts on the nearby property owners;

WHEREAS, Waste Management has stated its plan to file a conditional use application with the City, including holding the appropriate neighborhood meetings;

WHEREAS, La. Rev. Stat. 29:727(F)(1) grants me the authority to suspend the provisions of any regulatory ordinance, orders, rules, or regulations of any local agency prescribing procedures for the conduct of local business which would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, it is necessary to suspend certain provisions of the Comprehensive Zoning Ordinance ("CZO") to facilitate the prompt permitting and operation of an construction and demolition debris landfill to accommodate the urgent need for debris disposal in the City;

THEREFORE, I, C. RAY NAGIN, BY THE AUTHORITY VESTED IN ME as Mayor of the City of New Orleans by the Constitution and laws of the State of Louisiana and the Home Rule Charter and laws of the City of New Orleans, **HEREBY ORDER AS FOLLOWS:**

Section 1: Sections of the CZO relative to granting a conditional use permit for the construction and demolition debris landfill in a Light Industrial District at 16600 Chef Menteur Highway, Parcel 5, Section A, Area II, New Orleans East Subdivision, Lots 1C2A/1C4B, generally bounded by Chef Menteur Highway, Louisville and Nashville Railroad and the Lagoon Marseille Canal are hereby suspended.

Section 2: This suspension shall operate to permit a construction and debris landfill at this location only, upon approval by the City of New Orleans Department of Safety and Permits and the Louisiana Department of Environmental Quality.

Section 3: Nothing in this Order shall be construed to permit any other landfill to be approved and/or operated under this suspension. Likewise, only construction and demolition debris shall be accepted at this landfill site.

Section 4: The provisions of this Executive Order shall be effective for a period of six months unless earlier rescinded by me or by other operation of law.

FURTHERMORE, IT IS HEREBY ORDERED that such provisions be designed and formulated to effectuate the spirit, intent and purpose of this Executive Order.

IN WITNESS, I have fixed my hand this 1st **day of February, 2006, New Orleans, Louisiana.**

C. RAY NAGIN, MAYOR
CITY OF NEW ORLEANS

Vehicle Traffic Information Coalition

July 25, 2006

The Honorable James Inhofe
Chairman
Senate Environment & Public Works Committee
United States Senate
Washington, DC 20510

The Honorable James Jeffords
Ranking Member
Senate Environment & Public Works Committee
United States Senate
Washington, DC 20510

Dear Senator Inhofe and Senator Jeffords:

The Vehicle Traffic Information Coalition (VTIC) is a newly-formed, industry-wide initiative dedicated to promoting real-time traffic data at the federal, state and local levels. VTIC's members include: ESRI, Honda, Inrix, Mark IV, NAVTEQ, Tele Atlas, TeleCommunication Systems, Toyota, Traffic.com, Volkswagen and XM Satellite Radio. Additional car companies and technology firms are being approached to join at this time. The coalition also has "ex officio" status with the Society of Automotive Engineers, ITS Industry Advisory Committee, 511 Deployment Coalition and E-911 Institute.

Real-time traffic technologies can assist traffic managers with operations and management. It can also help state transportation departments achieve reduced congestion rates and enhance incident response times for emergency responders. And ultimately, real-time traffic empowers drivers from all across the nation's transportation network make more informed driving decisions.

VTIC will be hosting its inaugural event on Capitol Hill on September 14th. We will be hosting a Technology Fair and Reception in the Rayburn Foyer. We will send out invitations at a later date, however, certainly welcome your attendance and that of your staff.

VTIC recommends the Environment and Public Works Committee hold a hearing as close to the September 14th date as possible. The benefits derived from real-time

traffic data will help America's traveling public reduce gas consumption. Fuel efficiency is a message the traveling public would appreciate a closer examination on. Former Secretary Mineta cited in his National Strategy to Reduce Congestion that all congestion forms cause America an estimated $200 billion a year. Furthermore, Americans lose 2.3 billion gallons of fuel annually sitting in traffic jams. Before the Bear Stearns Global Transportation Conference, the Secretary estimated that trucking companies alone bear $14 billion a year in wasted time and fuel costs.

Real-time traffic information is a piece to the solution in tackling the issues of congestion and wasted fuel. Additionally, the infrastructure for the real-time network dovetails nicely into highway security issues. So alongside helping mitigate congestion and save on fuel, real-time information can be an ally in the fight to enhance the safety and security of the nation's transportation network.

Thank you for your consideration to this request.

Sincerely,

Mike

Mike Kangior
Executive Director

*VTIC * 317 Massachusetts Ave, NE * Suite 200 * Washington, DC 20002*
*(ph) 202.292.4604 * (fx) 202-292-4605*

United States Department of the Interior

FISH AND WILDLIFE SERVICE
646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506

May 19, 2006

Colonel Richard P. Wagenaar
District Commander
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Dear Colonel Wagenaar:

The U.S. Fish and Wildlife Service (Service) has reviewed Public Notice MVN-2006-1390-EFF (Water Quality Certification Application Number JP 060317-01), dated April 28, 2006. Waste Management of Louisiana has requested an after-the-fact Department of the Army permit authorizing the deposition of fill in "waters of the United States" (as defined by the Clean Water Act) to construct, operate, and maintain the Chef Menteur Landfill. According to the Public Notice, emergency authorization to construct and operate that landfill was granted by the Corps of Engineers (Corps) under Emergency General Permit NOD-20 on April 14, 2006. The proposed project is located near the eastern limit of the City of New Orleans, in Orleans Parish, Louisiana. This report is provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

Prior to landfill construction, the subject site was a complex of open-water impoundments created as a result of previous borrow-extraction activities on the Maxent Ridge. According to the Public Notice, no jurisdictional wetlands have been, or will be, directly impacted by construction and operation of the landfill. During a recent telephone discussion with the Corps, we were informed that prior to permit issuance, the site was hydrologically connected to the Maxent Canal by at least one culvert; however, we were not able to determine the current status of, or the applicant's future plans for, that hydrologic connection. The site is bounded by U.S. Highway 90 (Chef Menteur Highway) to the north, the Louisville and Nashville Railroad and brackish marsh to the south, Maxent Canal and the Service-administered Bayou Sauvage National Wildlife Refuge (BSNWR) to the east, and by an existing borrow pit and commercial/industrial developments to the west.

In assessing project impacts, the Service considers both the value of the affected habitats to fish and wildlife, and their relative scarcity. The coastal wetlands (portions of which are within the BSNWR) adjacent to the proposed Chef Menteur Landfill constitute some of the key remaining marsh areas adjacent to Lakes Pontchartrain and Borgne. In addition to their aesthetic, recreational, storm-surge buffering, and water quality maintenance functions, those wetlands provide valuable habitat for a variety of species within the Service's federal trusteeship. The marshes along Lakes Pontchartrain and Borgne provide habitat for commercially and recreationally important estuarine-dependent fishes and shellfishes (e.g., red drum, Atlantic

croaker, spotted seatrout, southern flounder, Gulf menhaden, blue crab, brown shrimp, and white shrimp). Freshwater lagoons, bayous, and ponds also provide important habitat for species such as largemouth bass, crappie, bluegill, and various catfishes. Approximately 340 species of birds (including many migratory species) use the BSNWR throughout the year. The refuge supports at least one wading bird rookery, and roughly 30,000 to 50,000 waterfowl inhabit the refuge's wetlands during the fall, winter, and early spring months. Given its location, the Chef Menteur Landfill should be designed and operated to avoid adversely impacting the wetland habitats that support these nationally significant biological, social, and economic resources.

According to the Public Notice, implementation of the project as proposed would directly impact 74 acres of jurisdictional "waters of the United States." The Service, however, is primarily concerned about the potential secondary and indirect effects of siting and operating a construction/demolition debris (C&D) landfill at the current location. Information provided in the Public Notice indicates that the final capacity of the facility will be approximately 6.5 million cubic yards of material, extending over 100 feet above the bottom elevation of the pit, which does not include a protective liner. Given the scope and nature of the flooding events and the age of many of the buildings to be demolished and deposited in the proposed landfill, we believe that the delivery of materials containing numerous environmental contaminants, such as: lead-based paint, asbestos, creosote, arsenic-based wood treatment chemicals, various petroleum products, and a variety of pesticides and household cleaning chemicals would be unavoidable.

Placement of such materials in an un-lined landfill, particularly within coastal wetlands, could potentially result in leaching and resultant persistent contamination of ground water, surface water, and adjacent wetland habitats. According to the Natural Resources Conservation Service's *Soil Survey of Orleans Parish, Louisiana*, the existing landfill site occurs within the Allemand soil series, which has a 16 to 51-inch-thick organic layer within the upper zones. Surrounding soils are of the Kenner, Clovelly, and Lafitte series which have similarly deep organic layers and are described as either "rapidly permeable" or "very fluid," thereby increasing the likelihood for subsurface transport of potential contaminants via local groundwater pathways. The potential for surface water transport of such contaminants is enhanced by the landfill's proximity to adjacent wetlands, the BSNWR, and the Maxent Canal. Long-term exposure of fish, wildlife (including invertebrate populations, which are an essential prey base that supports the food web), and their habitats to bioaccumulative contaminants could significantly reduce their diversity and density. Additional potential impacts to fish and wildlife from contaminant exposure include reduced reproduction from egg shell thinning and mortality from exposure to lead and organochlorine pesticides (e.g., pre-1970's termiticides such as chlordane) which may be sequestered in the soil and construction debris that would be deposited at the site.

Future storm impacts to the landfill, especially during those events that occur before the final cap has been placed, are also potentially significant. Under those conditions, the unsecured debris would likely be re-deposited across the landscape due to wind, tidal surge, and flooding effects. Thus, the sustainability and security of the facility over the expected period of operation should be considered.

The 23,000-acre BSNWR, a portion of which is located along the eastern boundary of the Chef Menteur Landfill, is the largest urban National Wildlife Refuge in the United States. It not only

provides valuable habitat for fish and wildlife (as described above), but it offers an aesthetically pleasing experience, in a natural setting, for its more than 150,000 visitors annually. The current proposal would involve placement of debris adjacent to the Refuge to a finished height of approximately 80 feet above surrounding landscape elevations. The aesthetic attributes of BSNWR would be significantly and permanently diminished by the resulting highly visible landform created by the debris pile. Accordingly, should the applicant be authorized to continue operation of the Chef Menteur Landfill, a vegetative buffer should be immediately established and maintained between the eastern edge of the landfill and the Maxent Canal to preserve aesthetic views from the BSNWR throughout the year. That buffer should consist of native site-suitable vegetation that is of sufficient height and width to continuously block the landfill entirely from view within the Refuge.

The Environmental Protection Agency's 404(b)(1) guidelines prohibit the discharge of dredged or fill material for non-water dependent proposals in aquatic ecosystems if there is a practicable alternative which would have less damaging environmental impacts. Those guidelines further specify that, for non-water-dependent activities proposed within special aquatic sites, practicable alternatives which do not involve special aquatic sites are presumed to exist unless clearly demonstrated otherwise. Accordingly, the Corps should, albeit after-the-fact, fully evaluate the capacity and availability of all other existing landfills (and potentially suitable landfill sites) within a reasonable distance, and modify the emergency permit for a C&D landfill at the currently proposed site based on that evaluation. In consideration of the enormity and urgency of current recovery efforts, however, and consistent with our previous position on the nearby Recovery 1 landfill, the Service offers no objection to the receipt and burning of vegetative debris at the currently proposed facility.

Should the Corps determine that less-environmentally damaging, practicable alternatives are not available and to avoid adverse secondary and cumulative effects to the surrounding wetland and aquatic habitats, the Service recommends that the issued permit be modified to require: A) the immediate establishment and maintenance of a continuous vegetative buffer between the eastern edge of the landfill and the Maxent Canal of sufficient height and width to continuously and entirely block the landfill from view (year-round) from within the Refuge; and, B) the removal of all hydrologic links between the proposed landfill and adjacent wetlands and waterways (including removal and backfill of the culvert[s] that connect[s] the landfill to the Maxent Canal). The issued permit should also include either of the following conditions:

1) If not equipped with a protective liner (approved by the Louisiana Department of Environmental Quality [LDEQ]), the landfill shall not be permitted to receive C&D materials; instead, only vegetative debris disposal should be authorized at the facility;

Or,

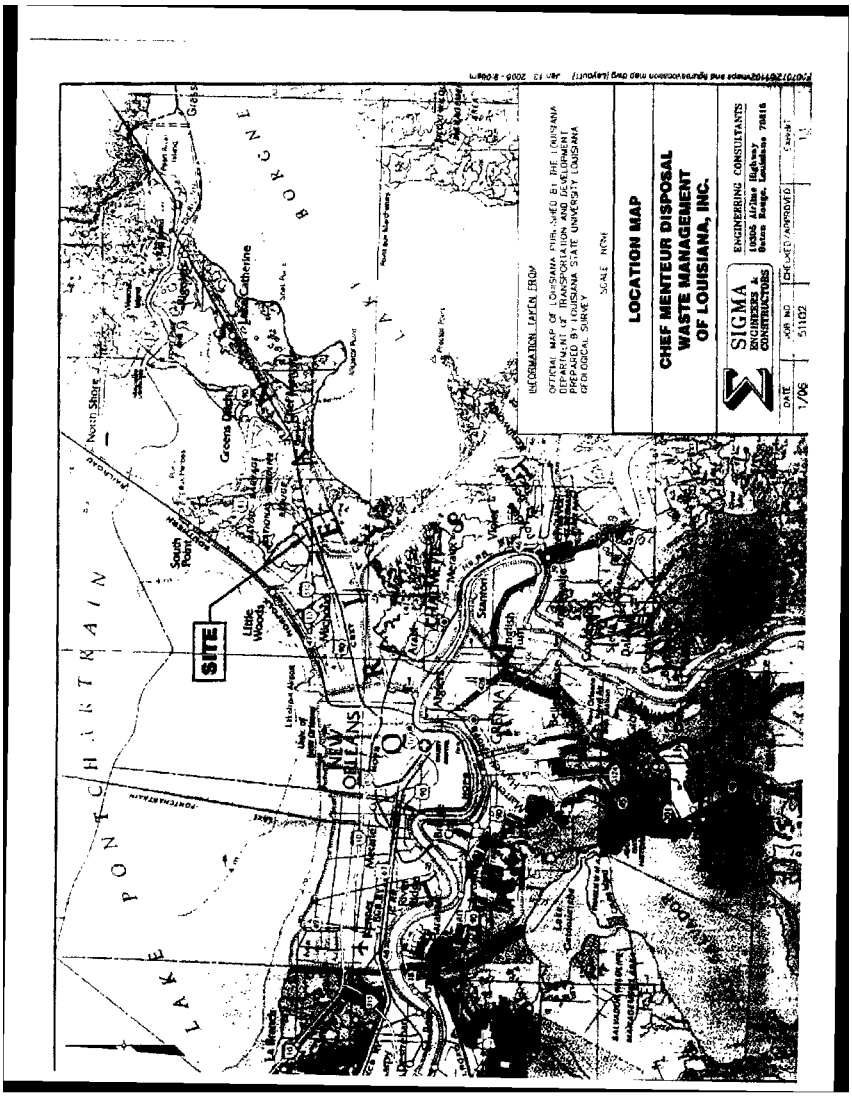
2) The landfill shall be equipped with an LDEQ-approved liner to prevent leaching of contaminants from the landfill into adjacent habitats via soils and/or waters, and the lined landfill shall be authorized to receive C&D materials and vegetative debris only.

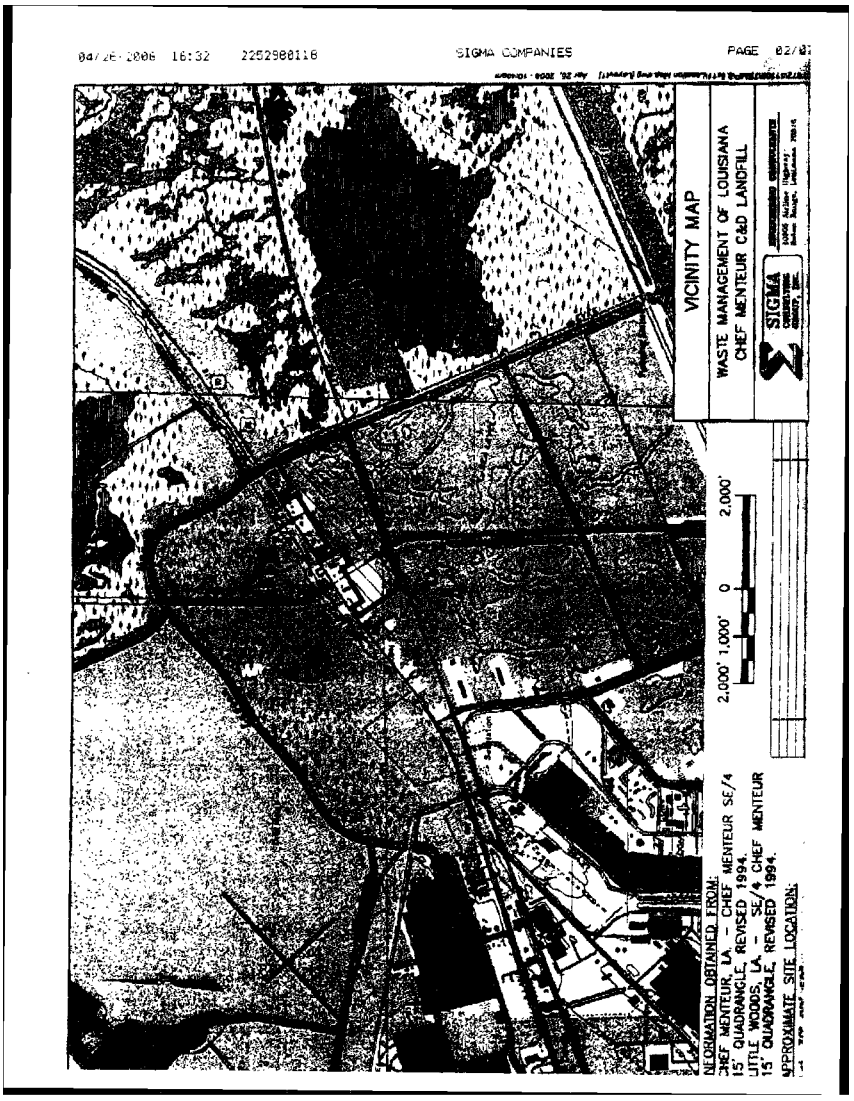
The above findings and recommendations constitute the report of the Department of the Interior. Please contact David Soileau Jr. (337/291-3109) of this office, if additional information is needed.

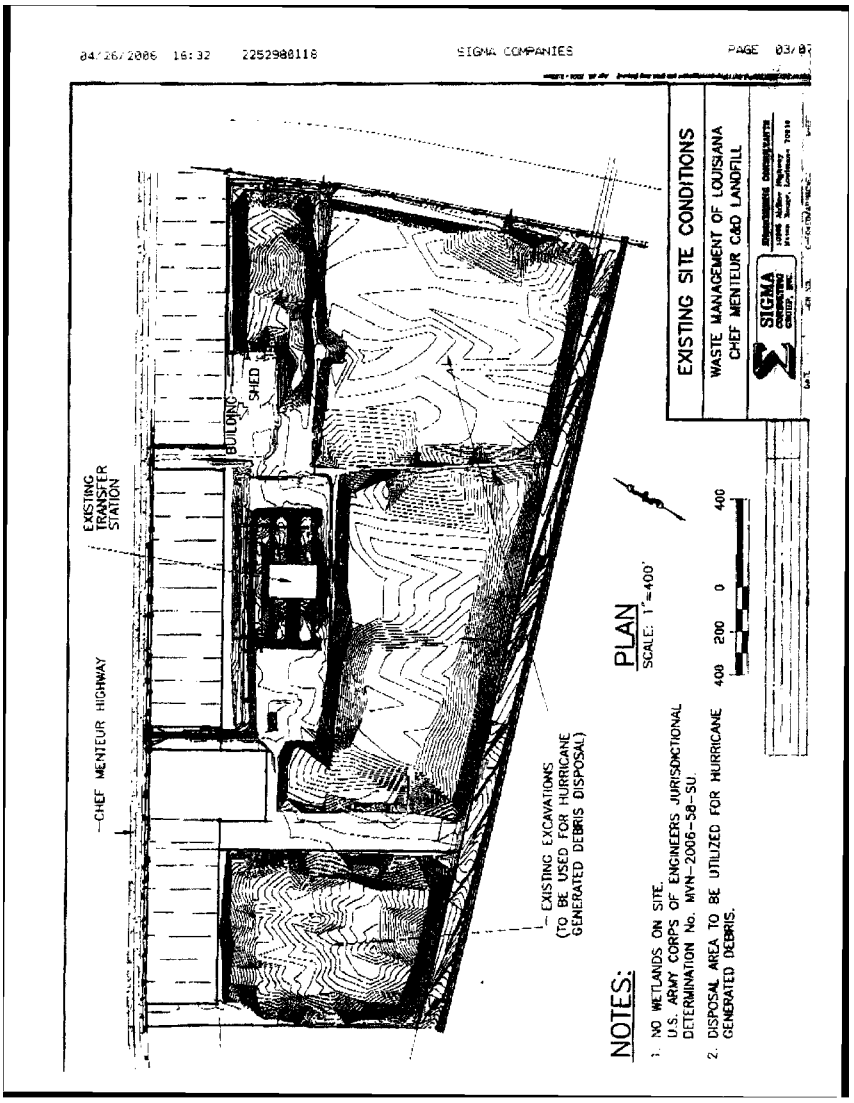
Sincerely,

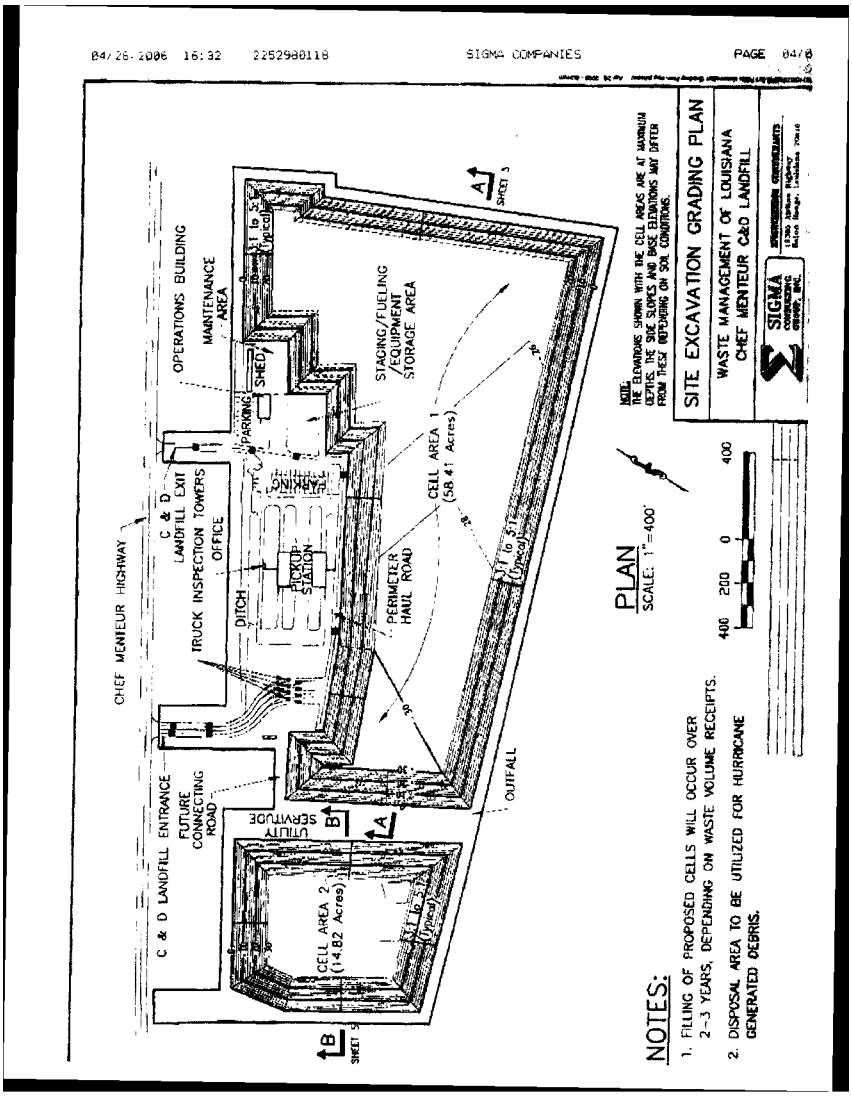
Russell C. Watson
Supervisor
Louisiana Field Office

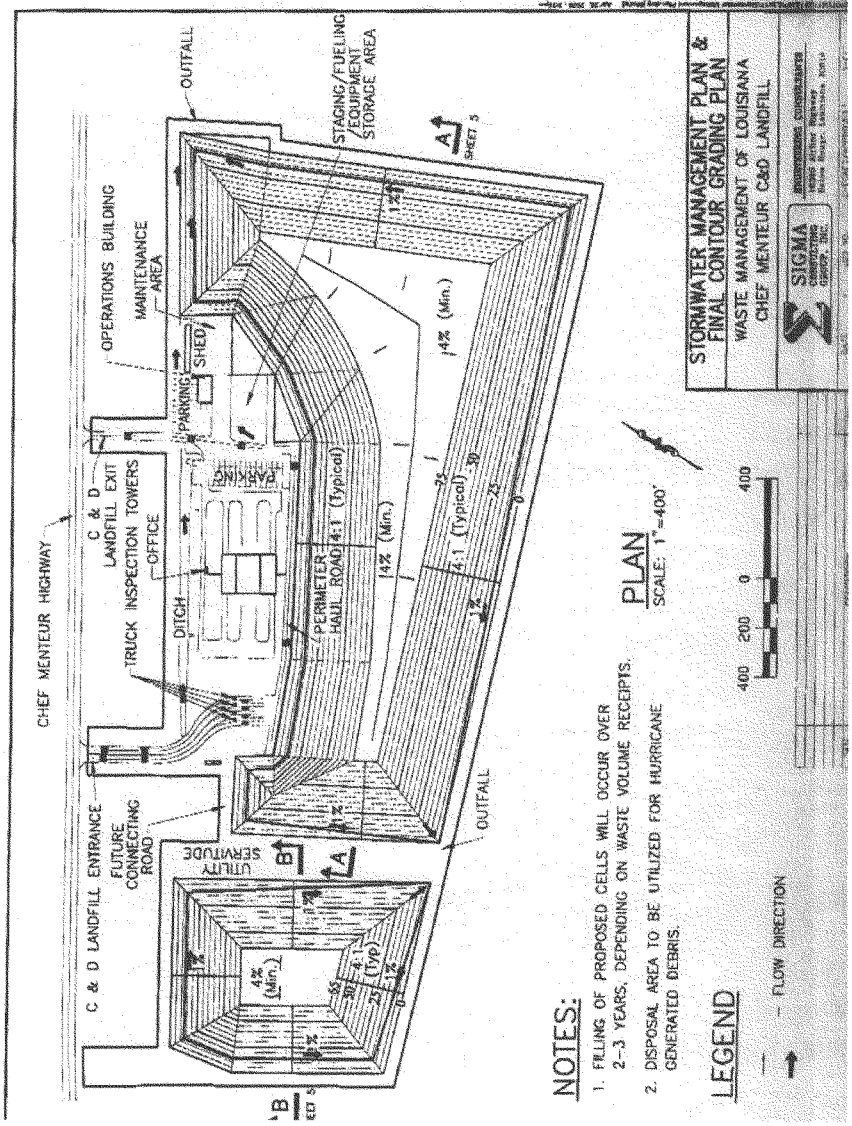
cc: DOI, OEPC, Dr. Stephen Spencer, Albuquerque, NM
USFWS, Ms. Noreen Walsh (AES), Atlanta, GA
USFWS, Mr. Lou Hinds (RF/RS-1), Atlanta, GA
USFWS, Southeast Louisiana Refuges, Lacombe, LA
FEMA, Mr. David Wittum, Baton Rouge, LA
LDEQ, Baton Rouge, LA

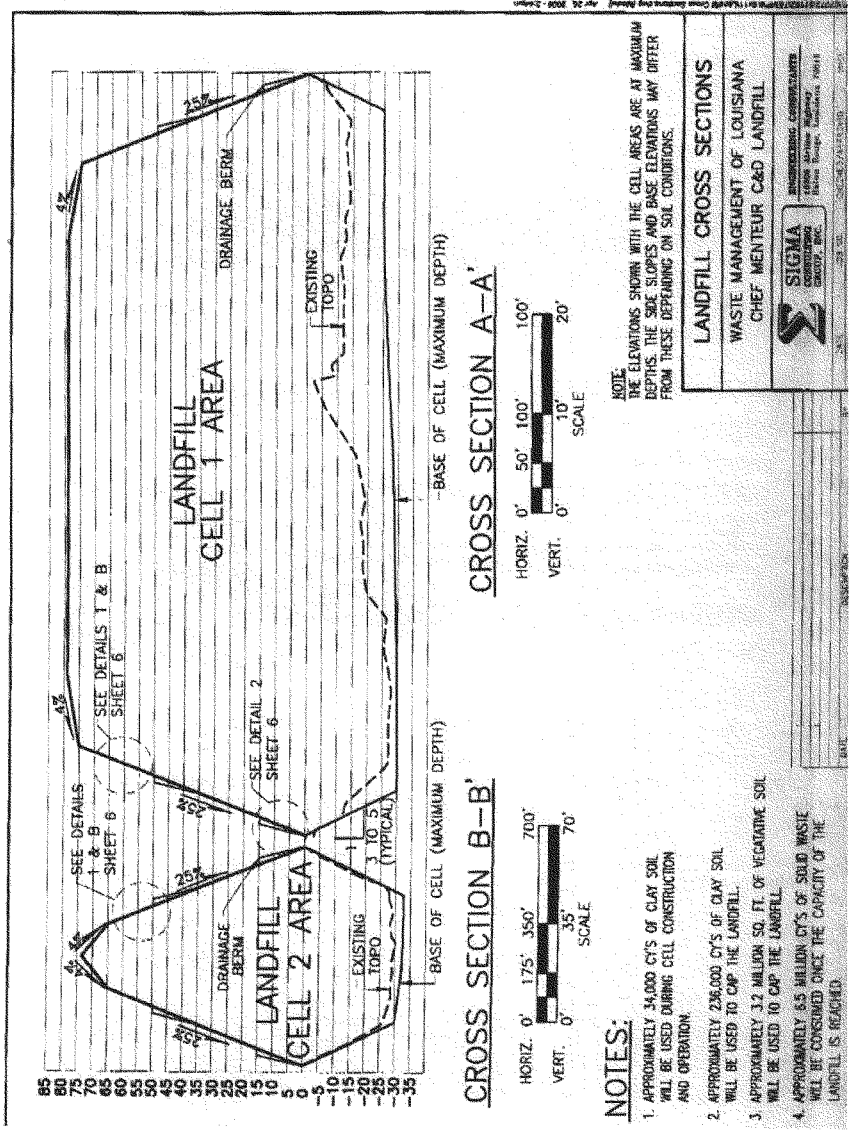

LAKE PONTCHARTRAIN
NEW ORLEANS
SITE
LOCATION MAP
CHEF MENTEUR DISPOSAL
WASTE MANAGEMENT
OF LOUISIANA, INC.
SIGMA
ENGINEERS & CONSTRUCTORS
ENGINEERING CONSULTANTS
DATE 1/06
JOB NO 51102


04/26/2006 16:32 2252980118 SIGMA COMPANIES PAGE 02/02
VICINITY MAP
WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL
SIGMA
2,000' 1,000' 0 2,000'
INFORMATION OBTAINED FROM:
CHEF MENTEUR, LA - CHEF MENTEUR SE/4
15' QUADRANGLE, REVISED 1994.
LITTLE WOODS, LA - SE/4 CHEF MENTEUR
15' QUADRANGLE, REVISED 1994.
APPROXIMATE SITE LOCATION:


04/26/2006 16:32 2252980118 SIGMA COMPANIES PAGE 03/03
EXISTING SITE CONDITIONS
WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL
SIGMA
EXISTING TRANSFER STATION
BUILDING SHED
CHEF MENTEUR HIGHWAY
EXISTING EXCAVATIONS (TO BE USED FOR HURRICANE GENERATED DEBRIS DISPOSAL)
PLAN
SCALE: 1"=400'
400 200 0 400
NOTES:
1. NO WETLANDS ON SITE.
U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL DETERMINATION No. MVN-2006-58-SU.
2. DISPOSAL AREA TO BE UTILIZED FOR HURRICANE GENERATED DEBRIS.


04/26/2006 16:32 2252980118 SIGMA COMPANIES PAGE 04/0
SITE EXCAVATION GRADING PLAN
WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL
SIGMA
PLAN
SCALE: 1"=400'
NOTES:
1. FILLING OF PROPOSED CELLS WILL OCCUR OVER 2-3 YEARS, DEPENDING ON WASTE VOLUME RECEIPTS.
2. DISPOSAL AREA TO BE UTILIZED FOR HURRICANE GENERATED DEBRIS.
CHEF MENTEUR HIGHWAY
C & D LANDFILL ENTRANCE
FUTURE CONNECTING ROAD
C & D LANDFILL EXIT
TRUCK INSPECTION TOWERS
OFFICE
DITCH
SCALE
OPERATIONS BUILDING
MAINTENANCE AREA
PARKING
SHED
STAGING/FUELING /EQUIPMENT STORAGE AREA
CELL AREA 1 (58.41 Acres)
PERIMETER HAUL ROAD
CELL AREA 2 (14.82 Acres)
UTILITY SERVITUDE
OUTFALL
SHEET 5
SHEET 3
400 200 0 400


CHEF MENTEUR HIGHWAY
C & D LANDFILL ENTRANCE
FUTURE CONNECTING ROAD
UTILITY SERVITUDE
TRUCK INSPECTION TOWERS
OFFICE
DITCH
C & D LANDFILL EXIT
OPERATIONS BUILDING
MAINTENANCE AREA
PARKING
SHED
PARKING
PERIMETER HAUL ROAD
OUTFALL
OUTFALL
STAGING/FUELING EQUIPMENT STORAGE AREA
4:1 (Typical)
14% (Min.)
4% (Min.)
4:1 (Typ)
SHEET 5
SHEET 5
NOTES:
1. FILLING OF PROPOSED CELLS WILL OCCUR OVER 2-3 YEARS, DEPENDING ON WASTE VOLUME RECEIPTS.
2. DISPOSAL AREA TO BE UTILIZED FOR HURRICANE GENERATED DEBRIS.
LEGEND
- FLOW DIRECTION
PLAN
SCALE: 1"=400'
400 200 0 400
STORMWATER MANAGEMENT PLAN & FINAL CONTOUR GRADING PLAN
WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL
SIGMA



NOTES:

1. APPROXIMATELY 34,000 CY'S OF CLAY SOIL WILL BE USED DURING CELL CONSTRUCTION AND OPERATION.
2. APPROXIMATELY 236,000 CY'S OF CLAY SOIL WILL BE USED TO CAP THE LANDFILL.
3. APPROXIMATELY 3.2 MILLION SQ. FT. OF VEGETATIVE SOIL WILL BE USED TO CAP THE LANDFILL.
4. APPROXIMATELY 5.5 MILLION CY'S OF SOLID WASTE WILL BE CONSUMED ONCE THE CAPACITY OF THE LANDFILL IS REACHED.

NOTE:
THE ELEVATIONS SHOWN WITH THE CELL AREAS ARE AT MAXIMUM DEPTHS. THE SIDE SLOPES AND BASE ELEVATIONS MAY DIFFER FROM THESE DEPENDING ON SOIL CONDITIONS.

LANDFILL CROSS SECTIONS

WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL

SIGMA CONSULTING GROUP, INC.

04/26/2006 16:32 2252980118 SIGMA COMPANIES PAGE 07/07
FINAL GRADE
6" THICK VEGETATIVE SOIL COVER
2' SILTY CLAY COVER
REFUSE
FINAL COVER SECTION (4% & 25% SLOPE) 1
NTS
RUNOFF DIVERSION BERM
2'-0" (TYP.)
6" THICK VEGETATIVE SOIL COVER
GRAVEL
6
25%
REFUSE
2' COHESIVE SOIL COVER
CROSS-SECTION THROUGH PROTECTIVE COVER DIVERSION BERM 2
NTS
FINAL GRADE
6" THICK VEGETATIVE SOIL COVER
1' PROTECTIVE SOIL COVER
REFUSE
FILTER FABRIC
DRAINAGE NET
40 MIL TEXTURED HDPE GEOMEMBRANE OR FUNCTIONALLY EQUIVALENT FML
ALTERNATE FINAL COVER SECTION (4% SLOPE) 3
NTS
1'-0" THICK VEGETATIVE COVER
GCL
REFUSE
INTERIM COVER
ALTERNATE FINAL COVER SECTION (4% & 25% SLOPE) 4
NTS
MISCELLANEOUS DETAILS
WASTE MANAGEMENT OF LOUISIANA
CHEF MENTEUR C&D LANDFILL
SIGMA

JOINT PUBLIC NOTICE

April 28, 2006

United States Army
Corps of Engineers
New Orleans District
Regulatory Branch
Post Office Box 60267
New Orleans, Louisiana 70160-0267

(504) 862-2260 / Fax: (504)862-2117
Project Manager
Darrell Barbara
Permit Application Number
MVN-2006-1390-EFF

State of Louisiana
Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

(225)219-0957 / Fax :(225)219-3158
Project Manager
Jamie Phillippe
WQC Application Number
JP 060317-01

Interested parties are hereby notified that a permit application has been received by the New Orleans District of the U.S. Army Corps of Engineers pursuant to: [ ] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); and/or [**X**] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344).

The application has also been mailed to the Louisiana Department of Environmental Quality, Office of Environmental Services, for a Water Quality Certification (WQC) in accordance with statutory authority contained in Louisiana Revised Statutes 30:2074 A(3) and provisions of Section 401 of the Clean Water Act.

CONSTRUCTION/DEMOILITION LANDFILL IN ORLEANS PARISH

NAME OF APPLICANT: Waste Management of Louisiana, c/o: Sigma Associates, Inc., 10305 Airline Highway, Baton Rouge, Louisiana 70816.

LOCATION OF WORK: In Orleans Parish, Section 2, T11S-R13E, located approximately 2 miles east of Interstate 510, at 16600 Chef Menteur Highway, in New Orleans, Louisiana, as shown on the attached drawings.

CHARACTER OF WORK: The work includes excavation and deposition of fill to implement the Chef Menteur construction/demolition landfill in Orleans Parish. The project will include the construction of two debris cell areas, roadways, parking, and amenities for the purpose of disposing of construction/demolition debris and vegetative debris resulting from Hurricanes Katrina and Rita. The proposed work will include impacts to approximately 74 acres of jurisdictional Other Waters of the United States, following completion. Determinations have shown that no jurisdictional wetlands will be impacted through implementation of the proposed landfill site.

Emergency authorization was issued by the Corps of Engineers under our Emergency General Permit NOD-20 procedures on April 14, 2006 for the proposed landfill, to dispose of construction/demolition debris and vegetative debris resulting from Hurricanes Katrina and Rita. In addition, the Louisiana Department of Environmental Quality issued an emergency authorization on April 13, 2006 under their Declaration of Emergency and Administration Order which was issued on August 30, 2005, and most recently amended on March 31, 2006.

The applicant may be required to fully or partially restore the project site to pre-project conditions, if issuance of a DA permit is determined to be contrary to the overall public interest.

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **30 days** from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be

received before or by the last day of the comment period. Letters concerning the

Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Similar letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above. The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 4:30 p.m. Copies may be obtained upon payment of costs of reproduction.

Corps of Engineers Permit Criteria

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public, federal, state, and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to make, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

No properties listed on the National Register of Historic Places are near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are being sent to the State Archeologist and the State Historic Preservation Officer.

Our initial finding is that the proposed work would neither affect any species listed as endangered by the U.S. Departments of Interior or Commerce, nor affect any habitat designated as critical to the survival and recovery of any endangered species.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of n/a acres of EFH utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, Office of Water Resources before a permit is issued.

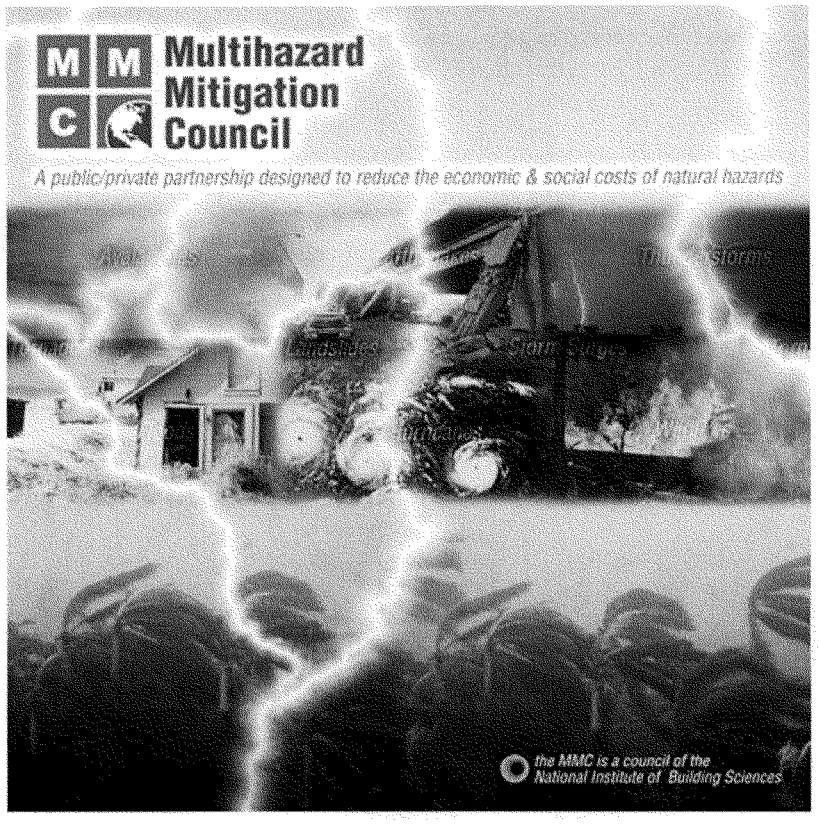
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

The applicant has certified that the proposed activity described in the application complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Resources Program. The Department of the Army permit will not be issued unless the applicant received approval or a waiver of the Coastal Use Permit by the Department of Natural Resources.

Pete Serio
Chief, Eastern Evaluation Section
Regulatory Branch

Enclosures



NATURAL HAZARD MITIGATION SAVES: An Independent Study to Assess the Future Savings from Mitigation Activities

Volume 1 – Findings, Conclusions, and Recommendations

THE MULTIHAZARD MITIGATION COUNCIL

The ***Multihazard Mitigation Council (MMC)***, a council of the National Institute of Building Sciences (NIBS), was established in November 1997 to reduce the total losses associated with natural and other hazards by fostering and promoting consistent and improved multihazard risk mitigation strategies, guidelines, practices, and related efforts. The scope of the Council's interests is diverse and reflects the concerns and responsibilities of all those public and private sector entities involved with building and nonbuilding structure and lifeline facility research, planning, design, construction, regulation, management, and utilization/operation and the hazards that affect them.

In recognition of this diversity, the Council believes that appropriate multihazard risk reduction measures and initiatives should be adopted by existing organizations and institutions and incorporated into their legislation, regulations, practices, rules, relief procedures, and loan and insurance requirements whenever possible so that these measures and initiatives become part of established activities rather than being superimposed as separate and additional. Further, the Council's activities are structured to provide for explicit consideration and assessment of the social, technical, administrative, political, legal, and economic implications of its deliberations and recommendations. To achieve its purpose, the Council conducts activities and provides the leadership needed to:

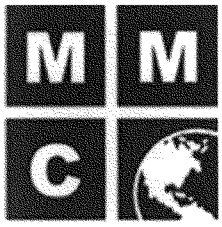
- Improve communication, coordination, and cooperation among all entities involved with mitigation;
- Promote deliberate consideration of multihazard risk reduction in all efforts that affect the planning, siting, design, construction, and operation of the buildings and lifelines systems that comprise the built environment; and
- Serve as a focal point for the dissemination of credible information and sage counsel on major policy issues involving multihazard risk mitigation.

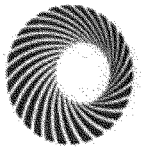
MMC Organizational Members

American Forest and Paper Association, Washington, D.C.; American Institute of Architects, Washington, D.C.; The American Red Cross, Washington, D.C.; Association of State Dam Safety Officials, Lexington, Kentucky; Association of State Floodplain Managers, Inc., Madison, Wisconsin; Consortium of Universities for Research in Earthquake Engineering, Richmond, California; Council on Natural Disaster Reduction/American Society of Civil Engineers, Reston, Virginia; Earthquake Engineering Research Institute, Oakland, California; Factory Mutual Insurance Company, Norwood, Massachusetts; French and Associates Ltd., Park Forest Illinois; GE Global Asset Protection Service, Hartford, Connecticut; IBM, Woodland Hills, California; Institute for Catastrophic Loss Reduction, Toronto, Ontario, Canada; International Code Council; Johns Hopkins University Applied Physics Laboratory, Laurel, Maryland; Multidisciplinary Center for Earthquake Engineering Research, State University of New York at Buffalo, New York; National Fire Protection Association, Quincy, Massachusetts; National Fire Sprinkler Association, Patterson, New York; National Institute of Standards and Technology, Building and Fire Research Laboratory, Gaithersburg, Maryland; Natural Hazards Center, University of Colorado, Boulder; Portland Cement Association, Society of Fire Protection Engineers, Bethesda, Maryland; State Farm Fire and Casualty Company, Bloomington, Illinois; Tennessee Building Officials Association, Murfreesboro, Tennessee; The Thornton - Tomasetti Group, Inc., New York, New York; Zurich U.S., Schaumburg, Illinois

MMC Affiliate Members

Baldridge & Associates Structural Engineering, Inc.; Corotis, Ross, Boulder, Colorado; Goettel and Associates, Inc.; Martin and Chock, Inc., Honolulu, Hawaii





National Institute of
BUILDING SCIENCES

The Multihazard Mitigation Council, a council of the National Institute of Building Sciences

NATURAL HAZARD MITIGATION SAVES: An Independent Study to Assess the Future Savings from Mitigation Activities

Volume 1 – Findings, Conclusions, and Recommendations

Prepared with funding from the Federal Emergency Management Agency of the U.S. Department of Homeland Security by the Multihazard Mitigation Council of the National Institute of Building Sciences with the assistance of the Applied Technology Council

National Institute of Building Sciences
Washington, D.C.
2005

This report was prepared under Contract EMW-2003-CO-0417 between the Federal Emergency Management Agency and the National Institute of Building Sciences. It is based on concept development and analytical work conducted under Contract EMW-1998 CO-0217. For further information, visit the Multihazard Mitigation Council website at http://nibs.org/MMC/mmchome.html or contact the Multihazard Mitigation Council, 1090 Vermont, Avenue, N.W., Suite 700, Washington, D.C. 20005; phone 202-289-7800; fax 202-289-1092; e-mail mmc@nibs.org.

In Memoriam

The Multihazard Mitigation Council wishes to acknowledge James M. Delahay, PE, for his contributions to the Applied Technology Council's research/analysis efforts and his significant contributions to the profession of structural engineering and the nation's codes and standards development efforts. The built environment and all those who use it have benefited tremendously from his work.

PREFACE

The National Institute of Building Sciences through its Multihazard Mitigation Council is pleased to submit this report to the Congress of the United States on behalf of the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security. This report presents the results of an independent study to assess the future savings from hazard mitigation activities.

This study shows that money spent on reducing the risk of natural hazards is a sound investment. On average, a dollar spent by FEMA on hazard mitigation (actions to reduce disaster losses) provides the nation about $4 in future benefits. In addition, FEMA grants to mitigate the effects of floods, hurricanes, tornados, and earthquakes between 1993 and 2003 are expected to save more than 220 lives and prevent almost 4,700 injuries over approximately 50 years. Recent disaster events painfully demonstrate the extent to which catastrophic damage affects all Americans and the federal treasury.

The MMC Board wishes to acknowledge the efforts of its subcontractor, the Applied Technology Council (ATC), and the dedicated, innovative, and painstaking work of the ATC research team The MMC Board also recognizes the Project Management Committee established to oversee the project on its behalf. The committee members spent countless voluntary hours reviewing study materials and providing guidance to the MMC subcontractor conducting the data analysis effort, and the MMC Board thanks them very much for their extraordinary contribution of time and expertise. The MMC Board also is grateful to the superb MMC staff and its project management consultant, who worked closely with the Project Management Committee and served as technical liaison with the ATC researchers. Further, the MMC wishes to thank the FEMA personnel and state and local officials who provided data and other information for analysis in this study. The MMC also wishes to express its gratitude to FEMA for having the confidence in the Council to give it the independence needed to conduct the study and prepare this report and especially to Maria Vorel and Margaret Lawless of FEMA for their insight and support.

Brent Woodworth
Chair, Multihazard Mitigation Council

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OVERVIEW

The Multihazard Mitigation Council (MMC) of the National Institute of Building Sciences (NIBS) conducted this independent study to quantify the future savings from hazard mitigation activities in response to a mandate by the Senate Appropriations Committee, Subcommittee for the Veterans Administration, Department of Housing and Urban Development, and Independent Agencies of the 106th Congress (Senate Report 106-161):

> The Committee recognizes that investing in mitigation will yield reductions in future disaster losses and that mitigation should be strongly promoted. However, an analytical assessment is needed to support the degree to which mitigation activities will result in future "savings." Therefore, the Committee directs FEMA to fund an independent study to assess the future savings from the various types of mitigation activities.

The study was based on a detailed work plan formulated by a team of experts established by the MMC Board. Although funding for the study was provided by the Federal Emergency Management Agency (FEMA), the study was conducted independently of FEMA. The study assumptions were generally conservative — that is, where appropriate, parameters and methods were chosen to produce lower estimates of future savings. Sensitivity analyses on key variables indicate the results are robust. More than 50 national experts in a wide variety of disciplines participated in the project. Study methods and results were reviewed by two separate groups of independent experts on an ongoing basis. (See the list of participants at the conclusion of this report.)

The study was structured to quantify the future savings (in terms of losses avoided) from hazard mitigation activities related to earthquake, wind, and flood funded through three major natural hazard mitigation grant programs (the Hazard Mitigation Grant Program, Project Impact, and the Flood Mitigation Assistance Program).[1] Two types of mitigation activity were addressed: "project" mitigations, which include physical measures to avoid or reduce damage from disasters (such as elevating, acquiring, or relocating structures threatened by floods and strengthening structures to resist earthquake and wind forces) and "process" mitigations, which include activities that lead to policies, practices, and projects that reduce risk and loss (e.g., assessing vulnerability and risk, educating decision-makers, and fostering adoption of strong building codes).

The study involved two interrelated components:

- The first component estimated the future savings from FEMA mitigation grant expenditures using a statistically representative sample of FEMA-funded mitigation

[1] The Hazard Mitigation Grant Program, which assists states and communities in implementing long-term hazard mitigation measures following presidentially declared disasters; Project Impact, which supported pre-disaster mitigation programs from 1997 to 2001; and the Flood Mitigation Assistance Program, which funds state and community measures to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program (NFIP).

grants so that results could be generalized for the entire population of FEMA mitigation grants. The unit of analysis for this component was the individual FEMA-funded grant.

- The second study component assessed the future savings from mitigation activities through empirical research on FEMA-funded mitigation activities carried out in community contexts. The community studies were both quantitative and qualitative and examined mitigation activities in a purposive sample of communities. The community studies examined all FEMA mitigation grants received by the selected communities since the programs began in 1988. It provided insights into mitigation effectiveness by exploring how mitigation activities percolate throughout the community in the form of synergistic activities — mitigation efforts that would not have occurred had it not been for the original FEMA grant. The unit of analysis was the individual community. These communities were blindly selected to represent predetermined demographic categories.

Both components employed common methodologies based on benefit-cost analysis to the extent possible. HAZUS®MH was used to estimate direct property damage from earthquake and hurricane wind. Supplemental methods were used to assess direct property loss from flood and tornado, business interruption loss for utilities, environmental and historic preservation benefits, and process mitigation activities.

Benefits were defined as losses to society avoided. The benefits considered in the analysis included:

- Reduced direct property damage (e.g., buildings contents, bridges, pipelines)
- Reduced direct business interruption loss (e.g., damaged industrial, commercial or retail facilities)
- Reduced indirect business interruption loss (e.g., ordinary multiplier or "ripple" effects)
- Reduced nonmarket damage (e.g., environmental damage to wetlands, parks, and wildlife and damage to historic structures)
- Reduced human losses (e.g., deaths, injuries, homelessness)
- Reduced cost of emergency response (e.g., ambulance service, fire protection)

Costs considered were taken from the FEMA grants database and included both the federal share of costs and the local match.

The study also estimated the effect FEMA grants on the federal treasury by reducing the amount of federal funds that would need to be spent on disaster response and recovery and avoiding post-disaster tax revenue decreases (and thereby increasing the amount that could be spent on other government programs). Because the savings to the federal treasury include some of the benefits and costs accruing to society as a whole, these federal savings cannot be added to those estimated for society. In accordance with economic theory, federal agency expenditures are made on behalf of society and funded by taxpayers. Consequently, they are viewed as transfers — equal benefits and costs that cancel. As such, the calculation of savings to the federal

treasury from hazard mitigation estimates the funds that could potentially be spent on other federal programs.

A detailed description of the study can be found in Volume 2 of this report, *Supporting Documentation*, which can be downloaded from http://www.nibs.org/MMC/mmchome.html. Further, the MMC will maintain all study data collected from FEMA for use by agencies, organizations, and researchers interested in testing the results of this study. Information related to human subjects will be made available in accordance with the requirements of the Institutional Review Board at the University of California, Los Angeles.

FINDINGS AND CONCLUSIONS

The study results indicate that the natural hazard mitigation activities funded by the three FEMA grant programs between 1993 and 2003:

- Were cost-effective and reduced future losses from earthquake, wind, and flood events;
- Resulted in significant net benefits to society as a whole (individuals, states, and communities) in terms of future reduced losses; and
- Represented significant potential savings to the federal treasury in terms of future increased tax revenues and reduced hazard-related expenditures.

FINDINGS

Grants Have High Benefit-Cost Ratios

The analysis of the statistically representative sample of FEMA grants awarded during the study period indicates that **a dollar spent on mitigation saves society an average of $4.** The MMC study estimates that societal benefits from FEMA mitigation grants during the period studied yielded a discounted present value of $14 billion compared to the $3.5 billion value of resources employed in the hazard mitigation programs studied. Moreover, sensitivity analyses indicate that these results are robust with respect to assumptions and uncertainties.

Community Context Reveals Additional Benefits

The examination of mitigation activities in a purposive sample of eight communities indicates that the benefits calculated for individual grants are conservative because they often foster additional non-federally-funded mitigation activities and additional benefits. The community analysis found that **FEMA mitigation grants are cost-effective, often leading to additional non-federally funded mitigation activities, and have the greatest benefits in communities that have institutionalized hazard mitigation programs.** In the communities studied, FEMA mitigation grants were a significant part of the community's mitigation history. The study found the FEMA-funded mitigation activities brought about the most additional non-federally-funded mitigation benefits if the FEMA grant was of the sort that helped to institutionalize mitigation in the community. Interviewees reported that the grants were important in reducing community risks, preventing future damages, and increasing a community's capability to reduce losses from natural hazards. Most interviewees believed that the grants permitted their communities to attain mitigation goals that might not otherwise have been reached and that the mitigation benefits of the activities funded by the grants went beyond what could actually be measured quantitatively (e.g., increased community awareness, esprit de corps, and peace of mind).

Savings to Federal Treasury

A separate calculation using estimates from the statistically representative sample of FEMA-funded mitigation grants examined the effect of mitigation grants on the federal treasury. This calculation identified the economic transfers that normally cancel each other out within the overall calculation of net benefits to society from mitigation activities. The analysis found that **a dollar spent from the federal treasury on FEMA mitigation grants potentially saves it about $3.65.** The present value of potential annual savings to the federal treasury because of the FEMA grants studied is approximately $970 million compared to an annual budget expenditure on these grants of $265 million. Thus, a dollar spent on mitigation grants leads to an average of $3.65 in avoided post-disaster relief costs and increased federal tax revenues. These results are statistically robust as well.

CONCLUSIONS

Given these findings, the MMC Board of Direction has concluded that:

- **Mitigation is sufficiently cost-effective to warrant federal funding on an ongoing basis both before disasters and during post-disaster recovery.** The nation will always be vulnerable to natural hazards; therefore, it is only prudent to invest in mitigation. In this context, mitigation should be considered in the broadest possible sense to encompass mitigation projects and processes that relate to enforcing strong building codes and land use and zoning measures as well as developing comprehensive plans that will limit disaster-caused damage and promote reduced losses from such things as disruption of utilities and transportation lifelines.

- **Mitigation is most effective when it is carried out on a comprehensive, community-wide, long-term basis.** Single projects can help, but carrying out a slate of coordinated mitigation activities over time is the best way to ensure that communities will be physically, socially, and economically resilient in coping with future hazard impacts.

- **Continuing analysis of the effectiveness of mitigation activities is essential for building resilient communities.** The study experience highlighted the need for more systematic data collection and assessment of various mitigation approaches to ensure that hard-won lessons are incorporated into disaster public policy. In this context, post-disaster field observations are important, and statistically based, post-disaster data-collection is needed for use in validating mitigation measures that are either costly, numerous, or of uncertain efficacy or that may produce high benefit-cost ratios.

MMC BOARD RECOMMENDATIONS

The MMC Board of Direction believes that the rigorous study described in this report and the accompanying volume of supporting documentation provides conclusive evidence that natural hazard mitigation activities are of benefit to the nation as a whole and are a cost-effective investment of federal funds. The Board therefore recommends that the federal government:

- Invest in natural hazard mitigation as a matter of policy on an ongoing basis both before disasters occur and through federally funded disaster recovery and rebuilding activities and programs;

- Support mitigation activities that will increase the resilience of communities by increasing knowledge and promoting institutional commitments to mitigation at the local level; and

- Support ongoing evaluation of mitigation by developing a structured process for assessing the performance of buildings and infrastructure after all types of natural disaster and by measuring the benefits that accrue from process mitigation activities.

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